United States Court of Appeals

for the Second Circuit

APPENDIX

75-1197

IN THE

United States Court of Appeals

FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

—against—

NORMAN RUBINSON, EDGAR REYNOLDS, WILLIAM CHESTER, LAWRENCE LEVINE,

Defendants-Appellants.

ON APPEAL FROM A JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

Vol. II—Pages 366a to 724a

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UNITED STATES COURT OF APPEALS
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SECOND CIRCUIT

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TABLE OF CONTENTS

	Page
Docket Entries	1a
Indictment	13a
Motion of William K. Chester to Appoint A Defense Attorney to Represent Him At the Jury Trial.	26a
Bill of Particulars.	29a
Supplemental Bill of Particulars	34a
Transcript of Hearing Dated June 17, 1974.	35a
Transcript of Hearing Dated June 27, 1974.	42a
Transcript of Hearing Dated December 5-6, 1974	54a
Transcript of Hearing Dated December 20, 1974.	108a
Rubinson--Direct	113a
Preliminary Matters (1/22/75).	127a
Trial Transcript	
Preliminary Matters.	140a
Government's Opening	157a
Schucalter--Direct	212a
Altschuler--Direct	220a
Sklar--Direct.	222a
Sklar--Cross	226a
Nordin--Direct	235a

	Page
Nordin--Cross.	290a
Nordin--Redirect	321a
Colloquy	366a
Nordin--Redirect	379a
Weitzman--Direct	380a
Weitzman--Cross.	467a
Stern--Cross	549a
Hochen--Direct	561a
Hochen--Cross.	579a
Hochen--Recross.	641a
Stack--Direct.	642a
Stack--Cross	677a
White--Direct.	681a
White--Cross	693a
White--Redirect.	696a
Torelli--Cross	703a
Stein--Direct.	725a
Stein--Cross	824a
Robing Room Conference Re: Jerome Haskell's Communication with a Juror . . .	995a
Stein--Redirect.	1018a
Stein--Recross	1064a
Stein--Redirect.	1068a

	Page
Vogelson--Cross.	1081a
Abt--Direct.	1084a
Abt--Cross	1089a
Steinberg--Cross	1091a
Mark--Direct	1092a
Mark--Cross.	1104a
Ochart--Cross.	1119a
Weiss--Direct.	1126a
Kaye--Direct	1132a
Kaye--Cross.	1140a
Kaye--Recross.	1197a
Stillman--Direct	1209a
Stillman--Cross.	1219a
Benenson--Direct	1236a
Nelson--Cross.	1238a
Nelson--Recross.	1286a
Count 20 Dismissed	1288a
Government's Closing	1289a
Robinson Summation	1432a
Andrews Summation.	1457a
Government's Rebuttal Summation.	1549a
Jury Instructions.	1600a

	Page
Exceptions to Jury Instructions.	1721a
Supplemental Jury Instructions	1748a
Colloquy During Jury Deliberation.	1752a
Defendants Wax and Levine's Requests to Charge.	1887a
Requested Additional Instructions.	1913a
Kaye's Judgment.	1915a
Stein's Judgment	1916a
Defendant Rubinson's Exhibit A	1917a
Defendant Rubinson's Exhibit B	1919a
Defendant Rubinson's Exhibit F	1920a
Defendants Wax and Levine's Exhibit A.	1921a
Defendants Wax and Levine's Exhibit J.	1923a
Defendant Chester's Exhibit G.	1926a
Transcript of Rubinson's Sentence.	1929a
Defendant Rubinson's Judgment.	1964a
Defendant Rubinson's Notice of Appeal.	1965a
Transcript of Hearing Re: Rubinson's Application for Bail Pending Appeal May 16, 1975	1966a
Defendant Levine's Judgment.	2030a
Defendant Levine's Notice of Appeal.	2031a
Defendant Kaye's Amended Judgment.	2032a

	Page
Honorable Constance B. Motley's Opinion dated July 28, 1975 as amended September 22, 1975.	2033a
Rubinson's Financial Affidavit (Not Submitted to Court)	2067a
Documents Defendant Rubinson Attempted to Offer into Evidence.	2068a
Letter dated June 15, 1968 Entitled Notice of Declaration of Stock Dividend.	2068a
Notice to Stockholders dated November 27, 1968	2069a
Notice of Special Meeting of Stockholders.	2070a
Letter from SEC to Marc A. White, Esq..	2071a
Letter from Germaise Cooper & Quinn to Board of Directors of Allen Capital Corp.	2072a
Letter dated August 28, 1968 from Irwin L. Germaise to Board of Directors, Calculator--Computer Leasing Corp.	2101a
Letter dated July 18, 1968 from Skadden Arps to Dr. Sidney Estridge	2113a
Notice of Declaration of Stock Dividend.	2115a
Transcript of Hearing on Motion to Amend Court's Opinion -- September 22, 1975.	2116a
Copy of endorsed order.	2136a
Copy of page 19 of Opinion, as amended and initialed by Hon. Constance Baker Motley.	2137a

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UNITED STATES OF AMERICA

Motley v.

NORMAN RUBINSON, et al.

74 Cr. 573

February 6, 1975
9:50 a.m.

(Trial resumed)

(In open court, jury not present)

THE COURT: Good morning, ladies and gentlemen.

Mr. Wohl, doyou have any better estimate of how long the trial might take now?

MR. WOHL: Your Honor, my estimate of additional time for the Government case at this point is approximately eleven to twelve days.

I would like to explain that, obviously, the Government's estimate leaves out any--

THE COURT: Cross-examination?

MR. WOHL: Yes.

THE COURT: So eleven to twelve days without that?

MR. WOHL: No, not without that, but what I would estimate to be average cross-examination, and I would have to explain, for example, if the witness Nordin is any

indication of the length of cross-examination, then it would be quite a big longer than that because the defense counsel, asis their right to do, -- and I am not saying there is anything improper about it-- but they have chosen the strategy of cross-examining Nordin on a number of things that I had thought originally would be pretty much undisputed in the case.

If the defense counsel continue to take a similar approach as to other witnesses, then it could go considerably longer.

THE COURT: What, for example, is undisputed about which they have been cross-examining?

MR. WOHL: For example, I think all of these transfers and the transfer records, and all of that sort of thing, is obviously the kind of thing that I think is pretty clearly undisputed.

The transfer records being the transfer records that were Stock Transfer Agency's records, that is something that if they want to cross-examine Nordin about clearly he is a witness of limited mental capability, perhaps, and there may be-- they could cross-examine him about that, but the Government could establish that these transfer records were turned over to the Government by somebody-- I believe one of the defendants -- we could bring up other

secretaries, and things like that, to identify the transfer records and explain how they are done.

So I had thought that probably we wouldn't get a lot of cross-examination in that area.

On the other hand, we are. They are entitled to do that, if they want.

THE COURT: With respect to these major witnesses, the Court is going to limit, as I did the other day, cross-examination to a maximum of two hours by any lawyer.

Mr. Chester, of course, took much longer, and that was what led the Court to put a limit on it.

A lot of it, of course, had been repetitious.

MR. ROBSON: Your Honor, may I say something?

THE COURT: With respect to the minor witnesses, it will be limited even further, and before I forget it, with respect to this recross, no lawyer will be permitted more than one-half hour.

And in your case, Mr. Robson, you began at 4:25 last night, and we concluded at 4:45, so you have ten minutes left.

MR. ROBSON: Your Honor, may I make a statement?

THE COURT: Yes, you may.

MR. ROBSON: I think, your Honor, that perhaps

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there comes a time in a case when this Court and the U.S. Attorney's office start to owe an obligation to the defendants and the system of justice in this country which transcends the desirability of expediting a trial.

Mr. Wohl has made a statement to your Honor which I think borders not only on impropriety but unethical behavior.

He has stated in his opinion there would be or could be no dispute about these records, and he says that in the face of grand jury testimony which I hold here by this witness in response to his questions-- and I would like to read a few of those questions and answers to your Honor--

THE COURT: In response to his questions?

MR. ROBSON: Mr. Wohl examined this witness before a grand jury about these records, and he asked this witness-- and this goes on for several pages --

"I show you grand jury Exhibit 13, which is a blue looseleaf notebook, purporting to be transfer sheets of National Ventures, and I ask you to look at that book and tell us whether or not it appears to be the authentic transfer records of National Ventures, Inc."

What does the witness say?

"No, it is not in this first section up to

transfer page No. 53."

We then go on to the next exhibit.

"I now show you grand jury Exhibit 14, and I ask you whether it is part of the authentic transfer records of National Ventures."

Exhibit 14 is the exhibit in which it shows Mr. Feiffer owning stock on a date different than the record shows.

What does the witness say?

"No, sir, they are not."

"I now show you grand jury Exhibit 15, and I ask you whether they are correct."

What does the witness say?

"No, sir, they are not."

Mr. Wohl, in the face of that testimony, lets this witness get on the witness stand and say "Yes, they are," when he hasn't seen them for six years. And then he has the audacity to walk into the courtroom and say to your Honor he thought there could be no dispute about those records, and now your Honor seeks to reduce my time to cross to ten minutes on these documents?

THE COURT: I am not basing the-- I am not reducing your time based on that suggestion.

MR. ROBSON: But you are reducing my time.

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THE COURT: I am reducing your time because we have eight defendants here, and each defendant has had an opportunity to cross-examine Mr. Nordin for a period of two hours. Some took less, of course. But I am imposing a limit because that is the function of the judge in a trial like this, of this magnitude, to try to have some order to bring the case promptly to a conclusion.

The only way to do that, when we have people representing themselves, and the problems we have had here with longwinded lawyers, is to put some kind of limit on the cross-examination.

I don't know any other way to do it. We can't permit lawyers in cases like this to get up and cross-examine witnesses indefinitely.

MR. ROBSON: Your Honor, may I say something?

I have an absolute right to cross-examine so long as my questions are proper. I have no interest whatsoever in what anyother attorney in this case does. If his questions are improper, then your Honor has the right to stop him from questioning.

I have perfectly proper critical questions to ask of this witness, and if your Honor intends to limit me to ten minutes, I request an adjournment so I may apply to the Court of Appeals to apply for relief from your Honor's

ruling, but I cannot finish with this iwtness in ten minutes.

THE COURT: There has to be some kind of limit and that's the Court's ruling.

We are going over the same thing. What you are doing is impeaching the credibility of this witness. That has been done repeatedly and repeatedly and repeatedly.

MR. ROBSON: These are the basic records in this case. I am not interested in his credibility. That's already been destroyed.

I am interested in the authenticity of these records. I want those charts withdrawn from evidence because they are based on records the witness said are not authentic.

THE COURT: Mr. Wohl said other witnesses would be here -- did I misunderstand you? -- with respect to those records.

MR. WOHL: What I said was we can produce other witnesses to authenticate those records. I don't think anybody -- well, Mr. Robson, apparently, thinks he can dispute the authenticity of those records.

In making this comment about the ethics of my behavior, he overlooks the fact that of course I made that grand jury testimony available tohim.

There was no effort to suppress it. He had his opportunity when he did his original cross-examination and didn't even touch this area.

THE COURT: Yes.

MR. WOHL: I would suggest perhaps if he is thinking of ethics he ought to get his own house in order first.

The point is that the Government-- I can't remember which defendant turned these over, and I am not absolutely certain they were turned over by a defendant, but my best recollection is the Government can establish these records were turned over to the SEC by one of the defendants here on trial, and that there has only been one set of National Ventures records, and only one set of Stern-Haskell records.

I would anticipate if this witness, if this is gone into on recross-examination, he will admit, I suppose or it is undisputed that he testified in that way in the grand jury.

I would expect he would testify that now he has had more of a chance to go over these records, he has gone over them more, he believes them to be the authentic National Ventures records.

We could, if the defense wants us to produce

other evidence they are the authentic National Ventures records, we can do it, and they can cross-examine on this point if tney want to, and I am not criticizing the defense counsel for going along this line whatever they want to do, though I think it is questionable if it is proper recross since they didn't raise it on cross, and they had all the grand jury testimony which showed what the witness said in the grand jury-- the point is simply that it is difficult for the Government to estimate the time of the trial if the defense has adopted the strategy of disputing some of these things which I had not thought in good faith they were going to dispute.

That is my only point.

MR. FISCHETTI: May I be heard briefly with reference to your ruling on time?

THE COURT: Yes.

MR. FISCHETTI: Your Honor, may I first state that I am aware of my professional conduct in this courtroom. Your Honor will remember that with reference to the witness Nordin, my cross-examination took approximately one minute.

He stated that he never met Mr. Haskell or spoke to him, and I immediately sat down.

Mr. Wohl may bring on other witnesses that would

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testify at length as to Mr. Haskell. As to those witnesses, your Honor, my cross-examination might be more lengthy.

I did not choose to represent Mr. Haskell along with every other defendant in this courtroom.

Mr. Wohl made that indictment. This is a conspiracy case. Your Honor limiting me to various witnesses I believe is improper, and I would also state to the Court--

THE COURT: I will tell you, Mr. Fischetti --

MR. FISCHETTI: May I just finish?

THE COURT: I have been over this. I have had cases like this before. I imposed limits on trial lawyers, and those cases have been up in the Court of Appeals.

MR. FISCHETTI: As your Honor knows, I have not cross-examined at any length.

THE COURT: In one instance I sought to limit lawyers, and I limited them to two hours, and the Government suggested maybe I ought not to do so, and one lawyer went on for eighteen hours, eighteen hours.

MR. FISCHETTI: I have not done--

THE COURT: I did not say you have done that. I am only telling you what the problem is.

MR. FISCHETTI: I understand, Judge.

THE COURT: The problem is that in a case like

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this lawyers will tend to abuse the right to cross-examine by going on forever, and there is a record which will demonstrate that beyond any dispute.

It was before me. And that's what happens in these cases, and that's what I am directing myself to, preventing that kind of thing.

The record will disclose we have had a lot of trouble, that I have with the conduct of lawyers, and there has to be some limit to what lawyers are going to be permitted to do here, and they are not going to be permitted to cross-examine without limitation, because there is a tendency to abuse rights which defendants have here by their lawyers.

On that basis, it is limited, and the recross is limited to one half-hour, and the discussion has ended.

MR. FISCHETTI: May I just ask your Honor why the Government is not similarly limited to its redirect, or on its direct examination?

THE COURT: Because the Government has the burden of proof, and we have eight defendants, not one party on the other side.

MR. FISCHETTI: All right, Judge, I have made my record.

Thank you.

THE COURT: So that if there are eight defendants you have to have some limit.

Do you suggest every defendant here be unlimited?

MR. FISCHETTI: No, your Honor, I suggest --

THE COURT: And one lawyer will getup for eighteen hours? What is going to happen then? What do I do then? Tell me.

MR. FISCHETTI: I will, Judge. I suggest that if I do not cross-examine seven witnesses in a row because they don't implicate my defendant, and then a witness gets on that does implicate him severely, where Mr. Wohl may have examined him on direct for five hours, I then am limited to two hours, and that simply is not fair.

THE COURT: That's right. That's where it is.

MR. FISCHETTI: Okay, I have made my record. Thank you.

MR. KEEGAN: Your Honor, we all object--

THE COURT: Don't start any discussion.

MR. KEEGAN: I won't start a discussion.

THE COURT: I said that it was over.

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2 MR. KEEGAN: I object to the ruling.

3 THE COURT: You don't have to object to any
4 ruling I make, Mr. Keegan. You know good and well you
5 don't. You have an automatic exception to any ruling I
6 make like that. You are just prolonging the discussion
7 now, and that's what's happened here.

8 I say the discussion is cut off, and right away
9 somebody jumps up to prolong it with making an objection,
10 for example, that is absolutely unnecessary. It's happened
11 throughout this trial. I have repeatedly warned lawyers
12 not to do that. You don't have to except to anything I
13 rule on at all. You know that very well.

14 Now, bring in the jury and the witness, please.

* * *

* * *

THE COURT: Just a minute. Mr. Chester, since you are not a criminal lawyer I must advise you that recross is limited to the subjects which were gone into by Mr. Wohl on his redirect examination.

So you can only ask him now about those subjects which Mr. Wohl covered in his redirect yesterday. You can't start all over again with cross examining this witness. You are limited to those subjects which Mr. Wohl covered in his redirect yesterday.

* * *

* * *

DIRECT EXAMINATION

BY MR. WOHL:

Q Mr. Weitzman, was there a time when you lived in Miami, Florida?

A Yes, there was.

Q When was that?

A The years from 1966 to 1970.

Q During the years 1968 and 1969, were you engaged in business in Miami, Florida?

A Yes, I was.

Q What was the name of your business?

A Blank Equipment and Leasing Corporation.

Q What type of business was that?

A Office furniture and equipment.

Q Did there come a time when you met an individual named Albert Feiffer?

A Yes.

Q Do you see Mr. Feiffer in Court today?

MR. ROBSON: I concede the identification.

A Yes, I do.

Q When did you meet Mr. Feiffer?

A I met Mr. Feiffer during the early months of 1968.

Q Where did you meet him?

A I met him in Miami.

Q Did he at that time tell you what his occupation was?

A Yes, he did.

Q What did he tell you on that score?

A He told me that he was involved in two businesses. One was a couple of pocketbook or boutique type stores, and the other was being in business in the stock market with other people.

Q Did he say who the other people were?

A Yes.

Q Who did he say?

A He said Mr. Stein, Mr. Sidney Stein, and -- the first name he said Mr. Sidney Stein and then at a later date he also told me about Mr. Rubinson.

Q Who is that? What was the full name of the second individual?

A Mr. Norman Rubinson.

Q Did there come a time when you were introduced to Mr. Stein and Mr. Rubinson?

A Yes, sir.

Q When did that occur?

A That was during either July or August of 1968.

Q Did you have discussions with Mr. Feiffer before you met Mr. Stein and Mr. Rubinson?

A Yes, sir.

Q Would you tell the Court and jury what you said and what Mr. Feiffer said at that time?

A Well, Mr. Feiffer and I first met strictly on a social basis, but I had also told him about certain business problems that I was having with my company in Miami, financial problems.

I was undercapitalized. And it was at his suggestion that I meet his associate in New York because he might be able to help in one way or another.

Q Who?

A Mr. Stein.

Q What did Mr. Feiffer say to you about your problem before you met Mr. Stein and Mr. Rubinson?

A Excuse me, I didn't hear you.

Q Did Mr. Feiffer say anything to you about your problem before you met Mr. Stein and Mr. Rubinson?

A When I told him what my problem was, he acknowledged the fact that I needed financing, and he said

that when he introduces me to his associates possibly he or they might come up with a situation that would solve my problems, such as arranging financing or possibly having a company acquire my company, or maybe going public, or he said one of many different things that are possibilities.

Q Where was it that you met Mr. Feiffer's associates?

A It was in New York at an apartment on 72nd Street.

Q Do you recall --

MR. ROBSON: May we ask the questions be directed to the witness so we know what he is talking about. He said where did he meet Feiffer's associates and I don't know what that means.

MR. WOHL: I thought that was clear.

Q Who does that mean to you?

MR. ROBSON: The question isn't who it means to him. If he wants to know if he met somebody, let him ask did you meet Mr. So and So and where did you meet Mr. So and So.

It is a simple question.

THE COURT: He will get to it. He wants to go into the meeting first, and then will bring out who was present and what was said.

MR. WOHL: Exactly, your Honor.

Q Do you recall the address of this apartment in New York?

A Yes.

Q What's that address?

A It was 360 East 72nd Street.

Q Who was present at this meeting?

A At the first meeting, of course -- well, there was Mr. Sidney Stein, Mr. Feiffer, myself and there were several other gentlemen there, too, whose names I don't know.

MR. ROBSON: Can we have this placed in time, please?

Q Do you recall the date of that meeting?

A The closest I can come is it was either in late July or early August.

Q What year?

A Of 1968.

Q Did you have any conversation at that time with Mr. Feiffer and Mr. Stein?

A Yes, I did. After waiting several hours Mr. Stein did ask about what my situation was that Mr. Feiffer primed him on. I told him, and he said, "Okay, we will think about it. Maybe I can throw your company into one

of my companies, or arrange some financing, or we will see. I'm not sure at that time."

He wasn't sure.

Q I am sorry?

A I said he wasn't sure at that time what he would do.

Q Did there come a time you met Mr. Norman Rubinson?

A Yes, sir.

Q When did that occur?

A That occurred on -- it was either one or two days after the initial meeting, and that was also at that same apartment on 72nd Street.

Q Who was present at that time?

A There was Mr. Feiffer and Mr. Rubinson and myself.

Q What discussion was there between Mr. Feiffer, Mr. Rubinson, and yourself at that time?

MR. ROBSON: May we have what was said by whom?

MR. WOHL: I think, your Honor, that this is purely background material that doesn't relate to these particular companies.

MR. ROBSON: If it is background I won't object to the leading.

Q Would you just tell us the subject matter of that conversation, without going into detail?

A Yes. I discussed the same matters pertaining to my business with Mr. Rubinson as I did with Mr. Stein previously.

Q During these two discussions, was anything said concerning the relationship among Mr. Feiffer, Mr. Stein, and Mr. Rubinson at that time?

MR. ROBSON: I am going to object to the leading and ask the witness be asked what happened, what was said during the conversation. There is a proper way, and only one proper way, to get the testimony of a witness about a conversation, and it is not for the Government to ask him question after question and have the witness say yes or no.

THE COURT: Is this in an area relating to the issues here?

MR. WOHL: I think it does. It is primarily background, but if Mr. -- I will withdraw that at this time, your Honor, and go on to something else.

Q After these two meetings in the summer of 1968, did you have occasion to meet with Mr. Feiffer, Mr. Rubinson and Mr.Stein again?

A Yes, sir.

MR. ROBSON: Can we have that question asked one at a time? I don't know how the witness can answer with respect to three individuals in one question.

THE COURT: Overruled.

A Yes.

Q On how many occasions did you meet with them?

A Many, many occasions, over an extended period of time.

Q What period of time did these meetings cover?

A Right up through December of 1969.

Q Did there come a time when you observed who had a key to this apartment on 72nd Street?

A Yes, sir.

Q And when was that?

A During the first meeting Mr. Feiffer told me he had a key. In fact, he lent me his key during that first--the second day, I think it was, that I was up there. He also told me that Mr. Stein had a key, and subsequently I had seen him use his key on several occasions, and --

Q Who is that, when you said you saw him?

A Mr. Stein. And also I had seen Mr. Rubinson use his key on several occasions.

Q Could you describe what this apartment looked like on the inside?

A Yes, sir. When you first walked into the apartment you walk into the living room.

Directly to the left of the entrance there was a bar with a couple of stools. There were the usual couches and chairs in the main area of the living room. Towards the windows, which were straight ahead on the left side, there was a dining alcove with a table and chairs and telephones.

Q How many telephones?

A Well, at that particular spot in the apartment it was either two or three units, with several lines on them.

Q Would you go on with your description?

A Yes. There was an entrance leading to the kitchen from that dining area, you might say, and if you came in the front entrance and walked to the left you would go to a small bedroom which was pass the kitchen area, or if you went to the right, there was a master bedroom, a larger bedroom.

Q How many telephone units were there in the apartment total?

A Either five or six, in that vicinity.

Q How many times did you have occasion to go to this apartment from 1968 until, I believe you testified,

December 1969?

A Quite a number of times. Maybe 20 or 30 times.

Q When you went there on these occasions, was the apartment in use exclusively as a residence or was it also an office?

MR. ROBSON: I object on the ground it calls for a conclusion. He can testify as to what he saw when he was there.

THE COURT: Yes. Ask him what he saw, and what took place.

Q Can you describe generally what took place on these occasions that you were there?

A Yes. That every day, bar none, there were business discussions, meetings, and telephone calls all day relating to ventures, stock ventures, mergers, acquisitions, and things of that sort.

Q Who was present in the apartment on those occasions?

MR. ROBSON: Who was present at each one of the 20 or 30 occasions?

MR. WOHL: If they were the same people who were there generally --

MR. ROBSON: I don't want a speech from Mr. Wohl. Is the question to the witness who was present on each of

the 20 or 30 occasions. If it is, I think it is irrelevant, and I object to it. If he is interested in any specific occasion he can ask him that question.

THE COURT: Do you want to make the question more specific as to the times this witness was there, what did he generally see, is that what you are asking him?

MR. WOHL: Yes, did he generally see the same people there?

THE COURT: All right.

A Well, of the many people that I saw there on these many occasions the three principal people that I saw there were Mr. Stein, Mr. Rubinson, Mr. Feiffer. Many of the days and for a good part of the time there was a maid, there was a chauffeur. A couple of days a week there was a bookkeeper, two or three days.

Would you like me to name some of the individuals that pertained to these business conversations that I mentioned?

Q Not at this time.

A Okay.

Q Does that complete the people who were normally there?

A Yes, that's correct.

Q Now, did you ever see Mr. Stein, Mr. Feiffer,

or Mr. Rubinson, use any method of transportation in New York?

A Yes. Mr. Stein, Mr. Rubinson, and Mr. Feiffer, had a Cadillac limousine, and Mr. Feiffer, had a Cadillac limousine, a black one -- that's the one that the chauffeur drove, the one I spoke of -- and it was at their disposal to use at --

MR. ROBSON: I object to what are obviously conclusions unless the witness has some idea in whose name that car was registered. He says they had a Cadillac. He can testify he saw somebody ride in a car. I think Mr. Wohl knows the Cadillac did not belong to Mr. Feiffer.

MR. WOHL: We will get right to that immediately.

THE COURT: The witness' testimony is that they had a Cadillac driven by a chauffeur at their disposal. Is that it?

THE WITNESS: Well, that's what I said, yes, but I was going to elaborate.

MR. ROBSON: I object to the statement that they had a Cadillac. He said he was there 20 times over a period of a year and a half and he saw --

THE COURT: We just clarified it. The witness said he had one at their disposal. That doesn't say that he owned it.

* * *

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AFTERNOON SESSION

2:10 p.m.

(Trial resumed.)

(Robing room conference sealed by order of the Court.)

(In open Court, jury present.)

(Time noted: 2:15 p.m.)

MR. WOHL: May I proceed, your Honor?

THE COURT: Yes, please.

xx S A U L S. W E I T Z M A N, resumed.

xx DIRECT EXAMINATION (Continued)

BY MR. WOHL:

Q Mr. Weitzman, did you ever have occasion to observe the license plate of this Cadillac limousine you were describing before lunch?

A Yes, sir.

Q Do you recall what that license plate said?

A Yes, it had three initials. SFR.

Q Did anyone ever tell you what those initials stood for?

A Yes.

Q Who told you that?

A Mr. Feiffer told me.

Q What did he tell you on that score?

A He said the three initials stood for Stein, Feiffer, Rubinson.

* * *

* * *

THE COURT: I see what you mean. Can you tell us which one told you about the schedule?

THE WITNESS: The three of them, on several occasions, told me what their schedules were and they most all the time conformed to the schedule that I will describe.

Stein, Rubinson and Feiffer would leave Miami in the afternoon, or early evening, for New York. They would usually leave New York on a Thursday afternoon,

approximately 4, 4:30, or 5 o'clock, to return to Miami.

A Are you also interested in knowing what took place --

MR. ROBSON: Your Honor, the witness has been asked the question and it is not for him to ask --

THE COURT: Mr. Wohl will put questions to you.

Q On what day of the week were you told that Stein, Rubinson and Feiffer normally left Miami to come to New York?

A On Sunday.

Q Were you ever told anything about who paid the expenses of this apartment in New York?

A Yes, sir.

MR. ROBSON: I object, your Honor, on the grounds of relevance.

THE COURT: Overruled.

Q Who told you that?

A Mr. Feiffer, Mr. Stein and Mr. Rubinson, on several occasions.

Q What were you told on that subject?

A Well, I could tell you this, that Mr. Feiffer told me that they share the apartment, they share the car, they share all the other expenses --

MR. ROBSON: I object and move it be stricken.

THE COURT: On what ground?

MR. ROBSON: The question was was he told who shared the expenses of the apartment. He is now bringing up a lot of other stuff.

THE COURT: What do you say, Mr. Wohl?

MR. WOHL: I think it was basically responsive, your Honor, and it would save asking some other questions.

THE COURT: All right, let's proceed.

MR. ROBSON: Is Mr. Wohl saying the witness knows what all the questions are going to be and he is going to give answers without questions? Is he that well prepared?

MR. WOHL: I am going to object to --

THE COURT: Proceed, Mr. Wohl.

Q Would you continue with your answer, Mr. Weitzman.

A Yes. I was told by Mr. Feiffer, Mr. Stein and Mr. Rubinson that they all had to pay for all the expenses regarding the apartment, the help, the automobile, and other details involved.

Quite often I was told to let me know how expensive everything was and they were very unhappy about the expenses.

MR. ROBSON: Could I have that read back?

THE COURT: Yes.

(Answer read.)

Q Can you identify Mr. Rubinson in court?

A Yes, I can.

Q Which gentleman is he?

A In the dark suit, in the middle, facing me.

Q What color tie?

A Blue tie.

MR. WOHL: May the record reflect that the witness has correctly identified Mr. Rubinson.

THE COURT: All right.

Q Have you ever met William Chester?

A Yes, I have.

Q When did you meet Mr. Chester?

A I met Mr. Chester in November 1968 for the first time, and then several times thereafter.

Q Do you see Mr. Chester in court?

A Yes, I do. That is Mr. Chester (indicating).

Q Standing.

MR. WOHL: May the record reflect the witness correctly identified Mr. Chester?

THE COURT: Yes.

* * *

Q Where did you hear of Stern-Haskell?

A The first time I heard the name Stern-Haskell was at my offices, of Blank Equipment, the company I told you about before.

Q And who was present?

A It was a large meeting and there were at least the following people there: Mr. Stein, Mr. Rubinson, Mr. Feiffer, Mr. Chester, Mr. Hochen, Mr. Haskell, a Leo Silber.

Those are the only ones I can recall at this time.

Q You mentioned Mr. Haskell.

Do you see Mr. Haskell in court today?

A Yes, sir.

Q Would you identify Mr. Haskell?

A Yes, the gentleman sitting next to Mr.Rubinson, in the dark brown suit, with the brown tie.

MR. FISCHETTI: The identification is conceded.

Q What part of your Blank Furniture facilities were these people in on this occasion that you are describing?

A Right next to my office. I had a showroom set up as a conference room, which had a large, long table, and many charis around it, and that was the room the meeting

was held at.

Q Had someone asked if that room could be used?

A Yes.

Q So you recall who that was?

A Mr. Stein or Mr. Rubinson, and, I'm sorry, I cannot tell you which one.

Q Were all of the people that you mentioned in this conference room?

A Yes.

Q On that occasion?

A Yes.

Q Were you in the conference room-- how long did this meeting last?

A Several hours.

Q Can you tell us what you mean by "several"?

A Four or five hours, in that vicinity.

Q Do you remember what part of the day?

A I recall it being in the afternoon, and that's about it.

Q Do you recall what day of the week this meeting was on?

A I seem to recall it being a weekend, either a Saturday or a Sunday. I am not 100% sure of this.

Q Were you in the conference room with all of these

A For short periods of time.

Q What were you doing?

A Well, I was in my office, on the other side of the door, doing whatever work I had to do relating to my company.

Q What was your occasion to go into the conference room?

A Well, there were times they needed certain items, such as pads to make notes, pencils, ash trays. At one time I brought in coffee. I ordered coffee for them. Just matters such as that.

Q Did there come a time when you heard what was going on in the conference room?

A Yes -- well, during those times that I did go into the conference room, the conversations did not stop and I heard parts of it and then, of course-- well, no, okay, then afterwards, after the meetig was finalized-- when it was being finalized, I was in there for a longer period of time.

Q Will you describe to the Court and jury, starting at the beginning and going on, as well as you can recall, who said what in the conference room that you heard?

A Well, in every meeting, including that one, Mr. Stein's voice was always the dominant one and he

mentioned the name Stern-Haskell, Stock Purchasing, National Ventures-- now, I am just referring to Mr. Stein at this particular moment.

However, those same words were used by many other people in the room, but I could not pinpoint them because I have no way of doing that.

Q Would you continue,please, what other conversation did you hear and what else did you see go on in the meeting?

A Well, these several times that I was in the room, for those short periods of time, I heard about exchanges of stock and it sounded like a merger going on, to me, or what have you.

These are the only things I heard during those periods.

However, there did come a time at the end when the voices raised and I heard congratulations going on and I witnessed a shaking of hands and saying, "Well, I'm glad we are agreed on all things."

That was something that took place at a certain time.

Q All right, what happened then?

A Well, the doors opened up to me at the meeting, too, and I was in there, and wanted to see what was going

on, naturally, and they started to -- oh, yes, upon that apparent agreement, they asked Mr. Silber if he would draw up some type of notes or agreement on paper so that they would have it regarding all the facts and points about this meeting.

He did then go into my office-- in fact, that is how I recall now ending up in the main conference room-- where he sat down and started writing something on either a legal pad, or something, I don't recall.

While I was in the conference room, they started to discuss numbers of shares and what they would do and with whom.

The conversation came up about who will be the nominees, at which time either Mr. Rubinson or Mr. Stein said "Well, of course, Al, you will be a nominee," and he agreed --

Q Who is he referring to at that point, when he said "Al"?

A Mr. Albert Feiffer. Larry Hochen, they asked him, and he nodded, or said "Yes," I don't recall. I am not sure, but I think the name Silber was mentioned as a nominee, but whether it was that Leo Silber or the other Silber, that I know of, I am not sure. And apparently -- not apparently, but they needed one more nominee --

Q Someone said that?

A Yes, either Mr. Rubinson or Mr. Stein-- at which time Mr. Stein turned to me and said, "Would you be a nominee also?"

I didn't know what they were talking about and I said, "Well, what does that mean?" And they said, "Well, you are going to own stock in a company, National Ventures, and you are going to get a stock dividend of Stern-Haskell and, don't worry, you are going to get shares for doing this," and I believe the figure of 2000 shares as my fee for being a nominee was mentioned at that particular time.

Do you want my reaction to this?

Q Well, whatever was said by you or by someone else, tell us that.

A My first reaction was "Yes," --

MR. ROBSON: Your Honor, I object to his reactions.

A I said "Yes" to the question but I immediately turned to Al Feiffer and to Mr. Hochen, whom I knew -- I know Hochen from before, too -- and I said, "What is this I just agreed to?" At which time the both of them told me, "It is quite okay. You are going to make money out of this. We have been nominees before and, don't worry, we will explain all the details to you later."

That was it.

Q Was anything said on the subject of who you were to be a nominee for?

A Yes, I was going to be a nominee for Mr. Stein, Mr. Rubinson and Mr. Feiffer even though Mr. Feiffer was also a nominee.

I didn't quite understand that, but, okay, that is what was discussed.

Q Do you recall any other discussion at this meeting?

A At this moment I don't recall anything --

Q Was anything said concerning whether you would have to put up any money?

A Yes, there was.

Q What was said on that subject and by whom?

A By the way, when the point was brought up by either Mr. Stein or Mr. Rubinson, that I would own stock in this company, National Ventures, they said that I would have to buy it, "However, don't worry, we will give you the money to buy it."

Q Did they tell you how many shares you were going to buy or how much they were going to cost?

A It is vague as to whether it was told to me at that particular moment or after the meeting broke up, or

what. I don't recall whether it was told to me at -- I do recall them talking about equal shares between Feiffer, Hochen, myself and I think Silber.

Q Who was talking about that?

A Several people. I cannot pin that down.

Q Who was part of this discussion that I believe you said occurred after the meeting?

A Well, there was Mr.Hochen, he remained on. Mr. Feiffer remained on and it seems as though they started to drift out. I don't think everybody left at once, if that is what you are asking.

Q Were you told anything on that day as to how you were going to get these shares?

A Yes. In fact, I asked Mr. Feiffer after the meeting, I said, "Well, what is this all about?" And I believe I heard the word "spin-out" or "spin-off" at that particular meeting, which didn't mean anything to me because-- okay, it didn't mean anything to me.

I asked, "How does this work, what is going to happen?" At which point Mr. Feiffer explained to me that I will own shares and I will be given the money to own shares in National Ventures and that some time in the future there were going to be shares of Stern-Haskell given out as a dividend.

As this was being told to me, part of it was sinking in and part wasn't. But at this time I know everything I am saying. There was a difference between now and then, what I am saying.

There was going to be a stock dividend that was going to be distributed from this National Ventures Company and it was all involved with the stock market and a public corporation, and things of that sort.

I tried to get a clearer picture at that particular time but it was hard for me to absorb any more than just the words and it wasn't until a meeting after that-- well, if you want me to stick to that meeting, then I will stick to that meeting.

I heard the words and I understood part of what was going to happen, but not completely.

Q At either the meeting you described with all the people there, or in smaller discussion afterwards, were you told how many shares were going to be put in your name?

A Yes, sir. It was told to me by Mr. Rubinson and by Mr. Feiffer.

The amount was 37,500 shares, and I was going to have to pay $375 for this, a penny a share.

Q Were you told anything about who was going to reimburse you for the $375?

A Mr. Stein, Mr. Rubinson, or Mr. Feiffer said, "We will reimburse you."

And that is the only way I can answer that.

Q Were you told anything on that day as to how you were going to set up actually purchasing these shares, or from whom you were going to buy them?

A That Mr. Chester will arrange for it.

Q Who told you that?

A I am not sure which one of the three. It is very difficult for me to separate them. There is a reason why, and if you ask me for the explanation or reasons, I will be glad to tell you.

Q Tell us why you have a ditficulty separating them.

A The three gentlemen, Stein, Rubinson and Feiffer,

were together 90 or 95% of the time. In all of these conversations that I have ever had with them, one might even start a sentence and the other one finish it. I might ask a question to one and get an answer from another.

It was very difficult to separate thos said what, and it was that way from the beginning right up to the end when I finished associating with them, except on certain specific situations I might have remembered one more than the other two, and that's the reason I cannot answer your question directly, specifically, about an individual.

Q What was the next thing that happened after the day you just described concerning Stern-Haskell?

A There came a time after that meeting that Mr. Chester came-- either he called first or just came to my office and he had-- I believe he had the actual certificate with him, or he gave it to me a day or two later, I don't recall. But there was also a couple of letters that had to be signed relating to my purchase of the National Ventures stock, the 37,500 shares.

* * *

* * *

MR. WOHL: I think the witness should be allowed to explain.

THE COURT: I thought he already explained his inability to distinguish.

Is that what you have in mind?

MR. WOHL: No, I think he will explain what occurred on this particular occasion.

THE COURT: All right.

A I was asked to endorse--

Q Tell us, where were you?

A In my office, the same conference room, and I was brought the certificate by the three gentlemen; Stein, Rubinson and Feiffer came. I believe it was Mr. Rubinson that actually had the ceritificate in his hand. I am not 100% sure, but this is what I recall.

I was asked to endorse it or sign it over to them, which I did do, and I was told that I would receive my 2000 shares of Stern-Haskell very soon.

* * *

Q What number of shares was this certificate you recall being on that occasion?

A The number of shares was 18,500 shares of Stern-Haskell.

Q What happened to the certificate after you endorsed it?

A They took it back. Stein, Rubinson and Feiffer took it back.

Q I am going to show you Exhibit 31 in evidence, which is a Stern-Haskell certificate of 18,750 shares in your name, and the question, Mr. Weitzman, is whether you have ever seen that certificate before?

MR. ROBSON: What was the exhibit number of that?

MR. WOHL: 31.

A It is either this one or one like it. It appears to be. It is the right amount, and my name is on it. The reason I say appears to be is because I seem to recall endorsing that certificate on the back, and I don't see the endorsement on here.

Q The certificate you have in your hand says 18,750 shares. I think you testified a moment ago that you thought it was 18,575.

A Yes.

* * *

(Trial resumed: 3.37.)

THE COURT: There is a juror missing.

(Pause.)

(Jury present.)

JUROR NO. 7: Unavoidably detained, sorry, your Honor.

THE COURT: Are you ready to proceed, Mr. Wohl?

MR. WOHL: Yes, your Honor.

BY MR. WOHL:

Q Did there come a time when you were told who was connected with Lockwood and Company?

A Yes.

MR. ANDREWS: I object to the form of the question and move it be stricken. "Connected with" is much too vague. Does it mean employed by, owns, works with, deals with?

THE COURT: Do you mean ownership, Mr. Wohl?

MR. WOHL: Yes.

A Yes.

Q Were you told who owned Lockwood and Company?

A Yes.

Q Who told you this?

A Mr. Rubinson and Mr. Feiffer. I remember them telling me, more so than Mr. Klein.

MR. CHESTER: I can't hear, Judge.

THE WITNESS: Mr. Rubinson and Mr. Feiffer.

Q What did they tell you on that subject?

MR. ANDREWS: Objection, your Honor, and I request he not be allowed to answer the question unless some basis is shown for the basis of the knowledge of the people who told him second hand -- much too prejudicial, the answer I anticipate he will give, without showing what its basis is.

THE COURT: Overruled.

A I am sorry, may I have the question again?

Q What were you told on that subject?

A I was told that when we go down to Lockwood Securities they will be seeing Mr. Larry Levine regarding certain matters and he is the man to see.

Q Were you told what his position was at Lockwood?

A Yes, that he is the man who owns the company and makes the decisions.

Q Was a promise made that Lockwood and Company be the underwriter for a Blank Furniture Company offer?

A Yes, sir.

Q Who made that promise?

A The four of us, this time, Mr. Stein, Mr. Rubinson, Mr. Feiffer and myself made it to Mr. Levine.

Q When did you make that to Mr. Levine, if you recall?

A The approximate moment, or something like that?

Q Yes.

A Early '69, January or February. It could have been December, too. It is in that vicinity, December of '68.

Q Did Mr. Levine reject that promise?

A Yes, he did.

Q Shifting back to Stern-Haskell, durin g this period after you received your stock certificates of 2,000 shares in the name of Lockwood and Company, these hundred-share certificates, did anyone say anything to you concerning Lockwood's role in connection with Stern-Haskell?

A Yes.

Q Who said this?

A Mr. Feiffer said it the first time, but then, after that, I heard the same thing from Mr. Rubinson and Mr. Stein, that very soon Lockwood Securities will be marketing the Stern-Haskell stock.

Q During the period shortly after you received your stock, did you have occasion to see Mr. Rubinson with a quantity of Stern-Haskell stock?

A Yes, I did.

Q Where was that?

A It was in New York, at the apartment.

Q What did Mr. Rubinson have?

A It was either a large suitcase full of certificates of Stern-Haskell or it was a package, wrapped up--I don't recall, but that I do recall.

Q Can you describe for the jury the approximate size of this quantity?

A A vague recollection, something like that high, a large package (indicating).

Q About two feet by --

A One and a half feet by one and a half feet, something like that, by one foot, I would approximate.

Q Did Mr. Robson say anything at that time?

A Yes. He said he had just flown up from Miami with it and it is a good thing that the plane didn't go down because the stock would have gone down too.

MR. ROBSON: May we find out when this was?

Q Do you have any recollection of when this occurred?

MR. CHESTER: Did we get the date?

THE COURT: He is thinking.

MR. CHESTER: I am sorry, Judge.

A Either the end of March or early April, in that

vicinity.

Q Of 1969?

A Of 1969, yes.

Q Did there come a time when you heard of a company called Mobile Home Ventures?

A Yes.

Q When was that?

A I would place it around the same time as the time I mentioned, or a little thereaf-er, say end of April or May or it could have even gone into June, I am not sure, but it was after that period where I saw the Stern-Haskell certificates.

MR. HIGGINS: Again, your Honor, is this being offered only as to certain defendants, this testimony concerning Mobile Home Ventures?

MR. WOHL: The testimony concerning Mobile Home Ventures and also Diston Industries, your Honor, that this witness will give is offered only against the defendants Rubinson, Feiffer, Chester and Reynolds.

THE COURT: All right.

MR. RUBINSON: I am sorry, your Honor, may I ask a question, please?

THE COURT: When it is time for you to cross examine the witness, you can ask the question. Make notes,

Mr. Rubinson, and when it comes your turn, you can cross examine the witness.

Q I show you Exhibit 6A, Mr. Weitzman, which is the National Ventures notification of a stock dividend in Mobile Home Ventures -- that is 6A in evidence.

May I ask you if you have ever seen that document before?

A I have seen it, yes.

Q How did you come to see it?

A I recall getting it in the mail.

Q Do you recall when you received it in the mail?

A Well, I can't help but see the date of May 6 on here, and that is the same vicinity of time that I approximated before, around May 6.

Q Did there come a time when you had a conversation with Mr. Chester concerning Mobile Home Ventures?

A Yes.

Q Do you remember when that was?

A Around the time of the Mobile Home Ventures matter.

Q I ask you to look at Exhibit 63 in evidence, which is a check from Stock Transfer Agency to you in the amount of $187.50. Does that refresh your recollection of

the approximate time you spoke to Mr. Chester concerning Mobile Home Ventures?

A Well, this is dated May 1. Again, it is just before the actual notice.

Q Where did you see Mr. Chester?

A At my office.

Q What did he say and what did you say in that discussion concerning Mobile Home Ventures?

A When he came he told me that he is there in regard to the understanding and instructions that I did get to sign --

MR. ROBSON: I didn't hear the last few words, your Honor.

THE COURT: Read the answer thus far, Mr. Reporter.

(Record read.)

A The understanding and instructions that I did get, and I am going to clarify that, was from Mr. Stein or Mr. Rubinson or Mr. Feiffer that it is okay to execute this transaction with him.

Q Would you back up, Mr. Weitzman, and first tell us what your conversation was with Mr. Chester and then if you had a conversation with somebody else, we will go to that.

A Mr. Chester asked me to waive my rights to the stock dividend of the Mobile Home Ventures that was being distributed from National Ventures.

Q What did you do then?

A When he did that, I was not sure whether I should and I made a call at -- I think it was at that time, while he was there -- to New York, I believe it was, or Miami, wherever Mr. Stein and Mr. Rubinson and Feiffer were, and, if I recall, I spoke to Mr. Feiffer and I said, "Mr. Chester wants me to sign a document waiving my right to the dividend of Mobile Home Ventures" and he says "That's okay, go ahead and sign it, it is perfectly okay."

I said, "Well, would that be okay with Norman?" And he said, "Oh, yes, go right ahead."

Q Then what did you do?

A Either I executed this at that moment or the next day or a few hours later, but that is the way it happened. And I received this check from Mr.Chester.

Q Would you look at Government's Exhibit 64 in evidence, which consists of two letters, both to Mr. Nordin, I believe, and one is from you and the other one is from Mr. Feiffer and would you look at just the one from yourself? Do you recognize that letter?

A Yes. This is my waiver and giving up my rights to the Mobile Home Venture distribution.

Q Did you sign the original of that document?

A Yes.

Q What did you do with it?

A I gave it to Mr. Chester.

Q At the time of this transaction, was there any discussion about your receiving any money?

A I did receive money and I remember getting it from him and I am sure -- I know that that was part of the arrangement, to get this 187.50.

Q Did anybody tell you what that money was for?

A Yes.

Q Who told you that?

A Mr. Chester.

Q And what did he tell you?

A He said this is in payment or consideration of giving up my rights in the Mobile Home Venture distribution.

Q Do you recognize Exhibit 63 in evidence?

A Yes.

Q Does your signature appear on the back of that check?

A Yes, it does.

Q That check is a check from Mr. Nordin, right?

A Yes.

Q From whom did you receive the check?

A From Mr. Chester.

Q Was there any discussion of any reimbursement for the $375 that you had originally spent for the National Ventures stock?

A Yes. Up until this time I had not received any reimbursement of the $375 and when I received this, I was told that this payment is to pay back part of the original $375 that I bought the National Ventures --

Q Who told you that?

A That was Mr. Stein. I recall that.

MR. CHESTERL I can't hear that.

A Mr. Stein.

Q Did you ever get the other half of your $375 back?

A I recall getting some of that or the rest of it back but I cannot recall how nor when. I have thought about that. There would have been another close to $200, $175 more.

I don't remember getting it back.

Q Do you remember whether you got it back in cash or in check?

A I am not sure about that.

Q Did there come a time, Mr. Weitzman, when again you saw some Stern-Haskell stock certificates in New York?

A Yes.

Q When was that?

A Well, right after Mr. Rubinson brought the certificates to New York Mr. Stein and/or Mr. Rubinson asked Mr. Feiffer to go down to Larry Levine and arrange for the distribution of the shares.

Q Where did this conversation occur that you just described?

A At the apartment, you know --

Q On 72nd Street?

A Yes.

Q What happened then?

A Mr. Feiffer -- whether it was that moment or an hour later --

MR. ANDREWS: May we know the date that this is all going on, your Honor.

THE COURT: Do you have the date when this occurred?

THE WITNESS: Approximate date, your Honor, the end of

April, early May, in that vicinity -- probably I think the

end of April or the early part of May. That is the only way I can remember it.

Q Could you tell us what happened then after eit Mr. Rubinson or Mr. Stein asked Mr. Feiffer to make the distribution?

A Well, he was about to leave, to go down to Loc wood and he asked me if I would just accompany him and ke him company, and I said yes, and I did, I went with him.

Q How did you get down to Lockwood?

A I recall going in the car, in the company car.

Q You mean the limousine?

A The limousine, right.

Q What happened at Lockwood and Company?

A I am not sure about the limousine. It is a little vague. It could have been a taxi, too. I am a little vague on that.

At Lockwood, when we first walked in we saw M Levine and Mr. Feiffer and he had a short, very short, conversation and then --

Q Did you hear what they said?

A No, I didn't.

Then Mr. Feiffer and I went into a large room there, it looked like a trading room to me, because it had a lot of desks, and he proceeded to separate certain stacks of the Stern-Haskell certificates into different piles, different packs, and that took a while, I don't recall how long, and when that was finished, we left there, we left.

Q Did Mr. Feiffer take these stacks with him or did he leave any of them there?

A He left some there, or a package there, and the rest he took with him.

Q Did he say what he was going to do, or did he say anything?

A Not at that time. I just knew or I was told at the beginning it had to do with distribution but I did not know where or to whom or anything like that.

I did not accompany him after Lockwood Securities.

Q Did he talk to anyone before he left?

A Before he left, he saw Mr. Levine and, I don't know, just a short period, from what I recall, and then left.

rm:mg 2 424a Weitzman-direct

Q Then what happened?

A He went his way and I went some place else.

Q Do you recall any other conversation at that time with Mr. Feiffer?

A Not that I can recall.

Q During that period, May and June 1969, did you hear any conversation in this apartment on 72nd Street concerning Stern-Haskell?

A Yes, I heard quite a number of things.

Q Can you tell us who said what concerning Stern-Haskell?

A Well, I remember originally Mr. Rubinson and Mr. Feiffer told me that Stern-Haskell is now listed and tradable at Lockwood-- listed, you know, I believe, in the sheets.

Q Did you know what they were referring to when they referred to the sheets?

A Yes.

Q What is that?

A The sheets is a document that I believe comes out daily among underwriters that posts the prices of different over-the-counter stocks.

Q Can you continue with what else you heard in these conversations concerning Stern-Haskell?

A It seemed to -- okay, I better not answer it that way-- well, there was a lot of talk about Stern-Haskell but, specifically, it was the fact that it looked good and the three of them would say that, "that it looked good, that it is going to be moving up, the price is going to be moving up, there is going to be more companies that are going to trade in the stock."

I know Mr. Stein very often was talking about Stern-Haskell on the telephone with different people, starting around that period.

I can't give you dates, but starting around that period, and discussing the price of the stock and things of that sort.

Q Can you recall what Mr. Stein said into the telephone concerning Stern-Haskell?

I withdraw that.

First of all, can you recall who he was talking to or whether anything was said in the apartment about who he was talking to on the other end of the phone?

A Yes. More often than not, most phones in the apartment were busy, so Mr. Stein would ask either Mr. Feiffer or Mr. Rubinson to get somebody on the phone for him while he was finishing another call, or whatever it might have been.

He would say, "Get Larry Levine on" or "Get Mike Gardner on" and then he would talk about Stern, or Stern-Haskell, or whatever it might be.

Did that answer your question?

Q Well, yes.

Can you tell us what he said into the telephone on these occasions?

A The conversations pertained to the price of the stock as it was trading at that particular moment as well as suggestions from Mr. Stein as to what it should be listed in the sheets for the following day.

He also had conversations stating that there is going to be 300 shares coming in or put to him and that it should be crossed, or somebody is going to sell something and you should pick it up, those type of conversations.

Q Who were those conversations with, which you just described?

A Eith either Larry Levine or Mike Gardner or there were others, but I don't -- I know there were others that he spoke to about it but I don't recall those conversations, the specifics of them.

Q Did you ever see Mr. Levine in this apartment on 72nd Street?

A Yes, I have.

Q When?

A It could have been April or May or June, and I wouldhave no way of pinning it down any closer.

Q Do you recall any of the conversation that occurred in the 72nd Street apartment that Mr. Levine participated in?

A No, I know that the name Stern-Haskell was always mentioned, how is it, or what it is trading at, but any other conversations, I was asked to leave the room, either go into one of the other bedrooms or they will meet me later, or whatever it might be.

Q Do you recall whether you saw Mr. Haskell, the defendant Haskell here, in the 72nd Street apartment?

A Yes.

Q When was that?

A I saw him there from approximately -- I would say right from the beginning of the year right on through December, the entire year of 1969, on many occasions.

Q Do you recall any conversation that Mr.Haskell participated in on the subject of Stern-Haskell stock?

A No, I don't.

Q Do you recall any of the conversations?

A Just the fact that-- I mean, conversations that

are so general -- "What's the price?" "It is doing well." "Good."

Things like that,but nothing more specific, aside from that.

Q During this period of April and May and June of 1969, did you observe Mr. Stein, Rubinson and Feiffer go anywhere while they were in New York?

A Yes.

Q Where was that? Or will you just tell us what happened?

A Well, on the working days, Monday through Thursday -- well, at least Monday, Tuesday and Wednesday, around the mid-afternoon, they would leave the apartment, or it could have been one o'clock or two, and they would leave the apartment and usually proceed to make certain rounds, more so to certain places than other places.

Q What places did they go?

A For instance, Lockwood Securities would be one of the stops, Gardner --

Q Did you see anyone at Lockwood Securities on these occasions?

A Yes. Mr. Levine.

Q Did you hear the conversation that occurred?

A No, I did not, because I either waited downstai

or I did not go into the office when whatever they went there for took place.

MR. ANDREWS: Your Honor, then I will object to his testimony and ask it be stricken as to whe he saw at the office, if he waited in the car.

THE COURT: Yes, that is stricken.

If he was in the car, he couldn't tell us who they saw upstairs.

Q Can you tell us what your basis was for making that statement?

A The statement about--

Q About who they saw?

A Because whenever I was with them at Lockwood they saw Larry Levine, which was on several occasions, and by me waiting downstairs, it was strictly an assumption on my part and no proof of who they met with.

Q Did they have any conversation about who they were going to see?

A The conversations "Let's go see Larry" or --

MR. ANDREWS: I object to this. He asked for his basis and he told him and now he wants to put more words in the man's mouth.

THE COURT: Yes.

MR. WOHL: If there was a conversation --

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MR. ANDREWS: Let him remember it spontaneously without it being put in his mouth.

MR. WOHL: I just asked him and if the witness says he doesn't remember --

THE COURT: Objection sustained.

Q Do you recall any conversations on the occasions that they went downtown?

MR. ANDREWS: Same objection, your Honor.

He has asked for his recollection and he stated it and this is leading.

THE COURT: Does he recall any occasions what?

MR. WOHL: Does he recall any conversations on the way downtown.

MR. ANDREWS: A standing objection to that question --

THE COURT: I don't know if he finished his previous answer. He was about to tell us he made certain rounds each day, one of which was to Lockwood, and then he was cut off by these objections.

Do you want to finish that?

MR. WOHL: All right, your Honor.

A When certain companies were mentioned by the three gentlemen, the names of the individuals at that company was most all the time intermingled; "If we are

going to Lockwood, let's go to Larry" or "Let's go to whatever" and the same thing with Gardner Securities: "Let's go see Mike," and then there would be a couple of more stops -- I knew of a couple of stops that were made besides them, but not nearly as often, at least while I was with them.

I did not accompany them on every trip downtown. I had my own other things to do.

Q Do you remember the names of any of these other companies they stopped at?

A I know there were a couple of individuals, a Howard something and an Arthur and I don't recall the name of the company-- two young fellows. The other companies are not clear, and it was maybe only once or twice that I went with them there, those other places.

Q Also during this period of time, that is, May and June of 1969, did Mr. Feiffer tell you anything about what Lockwood was doing?

MR. ANDREWS: Object to the leading question, your Honor.

"Relate your discussions with Mr. Feiffer" is what it ought to be, not about what Lockwood was doing. That is leading.

THE COURT: The question is did they ever tell

you what Lockwood was doing?

MR. WOHL: Did he have any discussions as to what Lockwood was doing concerning Stern-Haskell?

THE COURT: All right. Overruled.

A With Mr. Feiffer alone?

Q Either alone or with anyone else.

A Well, Mr. Feiffer, Mr. Rubinson and Mr. Stein said he was making a market and he was making a good market and things were going well in the Stern-Haskell stoc

Q Did they tell you anything concerning the price of Stern-Haskell?

A On occasion they told me that they thought it was going to go up further and whether there was a lot of shares being traded, or a little bit -- all relating to Lockwood, you mean, or just generally about --

Q Anything concerning the price of Stern-Haskell.

A That they expected it to go up further, when it was down lower, or "It's going well" or things of that sort. They also told me, if I recall-- not if I recall, I do recall-- that it is not easy to have a stock rise in price and have a good market for it, it is expensive and they have a lot of expenses in order to do it.

MR. ANDREWS: May we hear when this happened and who it was that was making the statement?

A Mr. Rubinson -- may I answer?

THE COURT: Yes.

A Mr. Rubinson and Mr. Feiffer told me.

MR. ANDREWS: When?

A On several occasions, both at the apartment and I don't recall the other places.

MR. ANDREWS: May I ask when, your Honor?

I'm sorry to interrupt Mr. Wohl.

Q Do you recall when it was?

A During the period of time that commenced with the listing, the starting of the listing of Stern-Haskell stock, onward for a period of time.

Now I think I testified that it was April, May and June, during that period.

Q Of 1969?

A 1969, yes.

Q You referred to lower prices, I believe.

Do you recall what these prices were that they were talking about?

A About the lower prices?

Q Yes.

Do you recall the numbers of the prices that were discussed concerning Stern-Haskell?

A Well, yes. I do recall the shares at one time

being $2, or even a dollar and a half, if I recall correctly, and to me this looked like an amazing thing, to have the shares at --

MR. ANDREWS: Objection.

A -- so I asked --

MR. ANDREWS: Objection.

His value judgments and qualitative analysis is improper.

THE COURT: Don't tell us what appeared to be amazing to you, just tell us what occurred and what the price was.

THE WITNESS: Yes, your Honor.

A At the time the shares were approximately $2 or $2-1/2 and I said that I thought that it was very good, at which time I was told by either one, two or the three of the gentlemen that I speak of, Stein, Rubinson and Feiffer, that it is going to be going up further, just have patience.

Q Now, were you told hwo high it was going to go up?

A No, I was never told that.

Q Did you ever hear of a stock called Diston Industries?

A Yes.

Q When did you hear of that stock?

A I know that that was a third transaction, you might say, and I would estimate that that occurred, that I heard of Diston Industries in probably May or June, in that vicinity.

Q I am showing you Exhibit 96B in evidence, which is a notice of declaration of the stock dividend of National Ventures relating to Diston Industries, dated June 2, 1969.

MR. HIGGINS: Your Honor, I assume again Mr. Wohl is offering this testimony as to only a few defendants?

MR.WOHL: I think I explained that earlier.

THE COURT: Yes, you did.

Q Does that Exhibit 96B in evidence refresh your recollection of the approximate date when you heard of Diston Industries?

A Yes, sir.

Q When was that?

A June 2.

Q And did you receive Exhibit--

A 1969.

Q And did you receive Exhibit 96B or another document identical to it, in the mail?

A Yes, I did.

Q Did you hear about Diston Industries from anyone?

A Yes. I heard about it from Mr. Stein and Mr. Rubinson and Mr. Feiffer.

Q Where?

A I don't recall whether it was in Miami or New York or whatever. I mean I just don't remember.

Q Can you tell us who said what in this conversation when theytold you about Diston Industries?

A Well, I remember Mr. Feiffer telling me that it is going to be the same kind of thing as the Stern-Haskell, we are going to get shares, so-- and that's about it.

So I expected the same thing as Stern-Haskell as to what transpired on Stern-Haskell.

Q Did there come a time when you said to either Mr. Stein, Rubinson or Feiffer, that you wanted to sell some of these 2000 shares of Stern-Haskell in the name of Lockwood that you testified you received earlier?

A Yes.

Q To whom did you tell this?

A I originally asked Mr. Rubinson that question.

Q Do you recall where you asked him that?

A It was at the apartment in New York on 72nd Street.

Q Would you tell us who said what at that time?

A Well, I told him that I would like to sell some Stern-Haskell because I needed money for whatever the reasons might have been, and he told me the"time is not ripe now, we are still buying, we have to clean up the market,"and I remember trying to ask Mr. Stein, but he always gave me an abrupt answer, you know, and pushed me off on to eitherMr. Rubinson or Mr. Feiffer. "We will let you know when."

Q Did Mr. Rubinson say anything about who was buying the stock?

A They were buying-- when he said -- he said, "We are still buying the stock."

Beyond that I cannot tell you who the "we" was.

Q Did he say anything further along that line at that time?

A Well, he said, "If you sell some of yours now, we will end up getting it because we are buying."

Q Did there come a time, Mr. Weitzman, when you

started to tape record some telephone conversations?

A Yes.

Q And did you have a conversation on or about June 28, 1969??

A Whatis that date, please, again?

Q June 28, 1969.

A I had several conversations on the telephone either on that date and in the vicinity.

Q I show you Government Exhibit 69A for identification, and I ask you if you recognize that tape cassette

A Yes, I do.

Q And how do you recognize it?

A Well, it was my cassette originally, and after recording the conversations, I would make notations on the cassette and in my handwriting so that's my handwriting, and I recognize it.

Q Does Exhibit 69A have on it some conversations referring to Stern-Haskell?

A Well, I don't recall if I wrote the word "Stern-Haskell" on there. I know there are conversations on the tapes regarding Stern-Haskell, but whether I wrote it on there or not I am not sure.

My eyes are not that great lately.

* * *

(In the courtroom in the presence of the jury.)

MR. WOHL: May I proceed, your Honor.

THE COURT: Yes, you may.

BY MR. WOHL:

Q In Exhibit 70E, Mr. Weitzman, where Mr. Rubinson says "I've got it, you, you know, you remember that paper made up of Stern-Haskell where you sold the stock;" do you remember now whether you knew at that time what paper Mr. Rubinson was referring to?

A I remember that at that time I was not sure what paper that was.

Q Did there come a time after this conversation when you had a meeting with Mr. Rubinson?

A Yes.

Q And where did that occur?

A At my office.

Q Who was present?

A I recall my secretary being present and I am almost positive it was Mr. Stein and Mr. Feiffer also, but it was at least one of the two of them besides Mr. Rubinson, and myself.

Q What day did this meeting occur on in relation to the conversation of Exhibit 70E?

A The same day, to the best of my recollection.

Q Would you tell the Court and jury what occurred at that meeting?

A There was a transaction relating to B'Noth Jerusalem --

Q You have to tell us who said what?

A Oh, I see.

Number one, I would like to make this clear too. I am almost a hundred percent sure that that is what happened at that particular day, after this conversation. whether it happened that night or the next morning, I can't tell you. I'm pretty sure the following happened on that particular day. I was advised by Mr. Rubinson and/or Mr. Stein and Feiffer that they are going to donate most of the Diston stock to this religious organization in New York.

I was instructed by either Mr. Rubinson and the other gentleman to sign certain papers transferring the ownership of those shares to that organization, with the understanding that I would still get the original 2,000 shares of stock that I had been given corresponding to the first transaction with Stern-Haskell.

Also, I was told that there would be a check involved of $1,000 payable to me from this organization in New York. I am pretty sure it was Mr. Stein, now, that

told me that that thousand dollars, even though it is made out from the organization in New York that is acquiring the stock, you might say, was in payment to me for 500 shares of stock of the Stern-Haskell that I transferred to Mr. Stein.

There were a couple of documents or letters drawn up at that particular time by -- they were dictated to my secretary by either Mr. Rubinson or Mr. Stein, I'm pretty sure, which existed in the transaction.

Q I show you Exhibit 66 and I ask if yourecognize that document, 66 for identification?

A Yes, I do.

Q What is it?

A This is a letter directed to B'Noth Jerusalem, which is the religious organization in New York, from me and has my secretary's initials at the bottom, describing the transaction that I just mentioned to you.

It -- shall I read it?

Q Let me ask you this. Did you ever sign a copy of Exhibit 66 for identification?

A Yes, I did.

Q Doyou have that original signed copy?

A No, I don't.

Q Do you recognize the carbon copies which are

Exhibit 66 for identification as true and accurate copie
of the original?

A Yes, to the best of my recollection.

Q I now show you Exhibit 65 for identification
ask if you recognize that exhibit?

A Yes, I do recognize this.

Q Does it have your signature on it?

A Yes, it does. It has been endorced by me.

Q Is that check that you received at about the
same time as the meeting you just described?

A Yes, that's correct.

* * *

* * *

A During the time that I was trying to sell some Stern-Haskell stock and was not permitted to do so, Mr. Stein made a proposal to me. He told me that he would buy 500 shares of my stock at $2 -- of my Stern-Haskell stock and he would pay me $2 per share for it.

The stock at that particular time was at around $3 or 3 1/2 or $4, I don't recall.

Q You mean in the public market?

A Yes. On the public -- as it was trading. I gave him the certificates and he told me he would give me the money, which he never did, until the day came that I received that check for $1,000 from B'Noth Jerusalem, and he told me that that is in payment for that.

Q For the Stern-Haskell?

A For the 500 shares of Stern-Haskell that I gave to Mr. Stein.

Q Did you have occasion thereafter to see Mr. Rubinson at the Carribean Hotel in Miami?

A Yes, I did.

Q When did that meeting occur?

A It occurred in July.

Q 1969?

A Of 1969; I'm sorry, yes.

Q Was that after these tape recorded conversations that we have heard?

A These particular conversations?

Q The ones that were just played.

A Yes. After that.

Q Who was present at that meeting?

A I recall just Mr. Rubinson and myself.

Q Was there a discussion concerning Stern-Haskell?

A Yes.

Q Would you tell the Court and jury what you said and what Mr. Rubinson said on the subject of Stern-Haskell, at that meeting?

MR. FISCHETTI: I am going to object to the continued use of the word by Mr. Wohl, "the meeting."

THE COURT: Pardon me?

MR. FISCHETTI: Meeting. He met Mr. Rubinson. It seems to me there was no one else there. I don't understand why it is a meeting. I think he is attempting to get an inference before this jury, your Honor.

I object to it.

THE COURT: What do you suggest he use in place of that word?

MR. FISCHETTI: They met with Rubinson and they had a conversation. He keeps saying "at this meeting" --

"and who was at this meeting?"

It wasn't a meeting. He met Mr. Rubinson.

THE COURT: All right.

Ask him what happened when he met Mr. Rubinson on that occasion.

Q Would you tell the Court and jury what you said and what Mr. Rubinson said when you met Mr. Rubinson on that occasion?

A Yes. I told him that of the original 2000 shares that I had, 500 went to Stein--

Q Share of what?

A Of Stern-Haskell. 500 shares of Stern-Haskell went to Mr. Stein, and 300 shares I had to give to some attorney for some reason, and of the 1200 that I had left I wanted to sell some of it.

And he agreed that he will permit me to sell some of them.

I explained to him that -- I told him that since they were still in Lockwood's name, I could not sell it, and he told me that he would make arrangements to transfer the name on the certificates into my name so that I could sell it.

He went to, at that time we both went to a phone booth or telephone thatwas in the lobby of the Caribbean

Hotel and he dialed a telephone number and he said, "Hello, Sten? I am sending Saul Weitzman up with some certificates; would you transfer them into his name?"

That was the end of the conversation. That was the conve-sation except for small talk.

Q What did you do then?

A It was either that same day or the next day that I went to see Sten Nordin at the Stock Transfer Company and I gave him my certificates that were in the name of Lockwood and he transferred and gave me twelve other certificates that were in my name.

Q I show you Exhibit 32 in evidence and I ask if you recognize those certificates.

A These are ten of those certificates.

Q They are in your name?

A Yes, they are.

Q Your signature appears on the endorsement on the back, is that right?

A Yes, they do.

Q Did you discuss with anyone what you were going to do with those certificates?

A I discussed with Mr. Rubinson that I was going to sell it and he said -- he gave me some instructions not to sell it all at once or hurt the market, and I don'

recall how many he said to start with, whether it was 200 or 100 or 300. And then that was the extent of that.

Q What did you do with the certificates?

A I proceeded to sell them.

Q Where?

A I believe I sold them all through one brokerage firm in Miami, Reynolds & Company.

Q What price did you get for the Stern-Haskell shares at that time, if you remember?

A If I remember, in the vicinity of $3 a share.

Q Do you remember the exact dates when you sold these shares?

A No, except it was in July, I'm pretty sure towards the end of July or there might have been a little bit over into August, I don't recall. But it was all within this period of time.

Q I show you Government's Exhibit 68 for identification and I ask you just to read it to yourself, Mr. Weitzman, and tehn tell us whether it refreshes your recollection as to the price you got for your Stern-Haskell stock.

(Pause)

A Yes, it does.

Q What is that price?

A This is not a good copy, a good, readable copy, but it appears to me as though some were sold at three and a half dollars, a couple at $3.25, and I think one sold for $2.75.

Q How many sales did you make?

A Seven sales total, but not all the same amounts.

Q What were the amounts?

A One sale was at -- two sales were made of 100 shares each and the other five were 100 shares each.

Q Were they in late July of 1969?

A Yes, they were.

Q Mr. Weitzman, I show you Government Exhibits 61 and 61A for identification, and I ask you if you recognize those documents.

A Yes, I do.

Q Where did you see them for the first time?

A When Mr. Rubinson brought them to my office.

Q Would you describe what Mr. Rubinson did and what you did concerning those documents?

A Nothing.

Q Well --

A Well, I mean, we had no transaction nor any discussions about these documents. He had left them in

my office after he left.

Q What did you do about them?

A I had them mixed in with a bunch of my other papers and held on to it.

Q Did you then turn them over to the SEC?

A Yes, I did.

MR. WOHL: The Government offers Exhibits 61 and 61A for identification into evidence, your Honor.

THE COURT: Any objection?

MR. CHESTER: We haven't seen them yet, your Honor.

(Pause)

MR. WOHL: Your Honor, Exhibit 61 for identification refers to Stern-Haskell and therefore is offered against all of the defendants.

Exhibit 61A does not refer to Stern-Haskell and therefore we will offer it at this time only with respect to the defendant Rubinson, with whom it is connected.

THE COURT: All right.

(Pause)

MR. RUBINSON: At this time, your Honor, I'd like to object to Government Exhibit 61 as to who wrote this, as to Investment Bank shares that wrote --

MR. FISCHETTI: Your Honor, I don't want to

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interrupt Mr. Rubinson, but may we withhold his objection until every counsel has seen the documents?

THE COURT: All right.

MR. FISCHETTI: It may make a little more sense.

(Pause)

THE COURT: Any objection to 61 and 61A?

MR. RUBINSON: Yes, Ma'am. My objection to introducing in evidence 61 and 61A is that it is introduced against me and Mr. Wohl knows for a fact that this is not my handwriting. He is leading the jury to believe that I am involved iwth a company called Marinus Laboratories and Investment Bank shares, Roxburgh Investment Limit 60 of the Bahamas, which is a gambling casino, and I don't see the relevance of introducing in evidence when they know it is not me.

I am going to show this to your Honor and let the Government prove that it is my handwriting.

May I approach the bench, please?

THE COURT: Yes.

MR. RUBINSON: I am just trying to prove whatkind of underhanded game they are playing here.

(Handing)

THE COURT: Is it claimed that is the handwriting

of Mr. Rubinson?

MR. WOHL: No, your Honor.

The Government expects to establish that it is the handwriting of another defendant--

MR. KEEGAN: I object before he gets it out of his mouth.

MR. WOHL: I think I am entitled to say in response to what Mr. Rubinson said that the Government does not contend that this is Mr. Rubinson's handwriting and expects to establish whose handwriting it is.

MR. KEEGAN: Fine. I'm sorry.

I thought you were going to name somebody.

MR. RUBINSON: Your Honor, I feel that should have been stated before this was introduced into evidence because me not being an attorney, if I didn't examine that piece of document, it would have been introduced as against me, and -- that's all.

MR. WOHL: It is introduced against Mr.Rubinson. We just don't claim it is his handwriting.

THE COURT: Yes. All right.

Objection overruled --

MR. KEEGAN: Your Honor--

THE COURT: Do you have an objection?

MR. KEEGAN: I have a question on the voir dire.

VOIR DIRE EXAMINATION

BY MR. KEEGAN:

Q Mr. Weitzman, do you know whose handwriting those two pieces of paper, 61 and 61A, is in, whose handwriting it is?

A Am I permitted to answer that?

No, I do not.

MR. KEEGAN: Then, your Honor, I object to its authenticity. No foundation as to the document.

THE COURT: Overruled.

xx (Government Exhibits 61 and 61A received in evidence)

MR. WOHL: May I exhibit them to the jury, your Honor?

THE COURT: Yes.

MR. WOHL: Exhibit 61 and 61A are both yellow sheets of paper with handwriting in red ink on them.

Exhibit 61 is dated May 3, 1969.

(Mr. Wohl read from Government Exhibit 61 in evidence)

MR. KEEGAN: Your Honor, at this point I call upon the Government to stipulate that that is not the handwriting of Edgar Reynolds since the Court has seen fit to put it in without proof of whose handwriting it is.

Would the Government so stipulate?

MR. WOHL: Yes. The Government expects to establish it is the handwriting of another defendant, not Mr. Reynolds.

MR. KEEGAN: Thank you, Mr. Wohl.

THE COURT: All right.

MR. WOHL: Exhibit 61A is another yellow sheet of paper with red handwriting.

(Mr. Wohl red from Government Exhibit 61A in evidence)

BY MR. WOHL:

Q Who have you heard talk about that company?

MR. HIGGINS: Your Honor, are we getting into another similar act here, IMvestment Bank Shares?

MR. WOHL: I think the Exhibit 61, which is a document referring to a sale of Stern-Haskell,also has on it Investment Bank shares as one of the entities apparently in this draft of sale of Stern-Haskell stock.

THE COURT: I see.

MR.HIGGINS: Is this being offered as to certain defendants then, your Honor?

THE COURT: Or all defendants?

MR. WOHL: It is being offered as to all defend - ants.

MR.HIGGINS: Investment Bank Shares, your Honor, is in no way, to my recollection named in the bill ofparticulars, and Mr. Wohl has never suggested anything concerning Investment Bank Shares until this very minute.

MR. WOHL: I think that this document has been available for the defendants to look at.

MR. HIGGINS: Mr. Wohl, you just passed it around here.

MR. WOHL: There are two file drawers of documents, Mr. Higgins, that have been available for all the defendants to look at.

MR. HIGGINS: Your Honor, I still --

THE COURT: Proceed, Mr. Wohl.

BY MR. WOHL:

Q Who was it that you heard refer to Investment Bank Shares?

A It was one of the -- it was either Mr. Stein, Mr. Rubinson or Mr. Feiffer.

The name was used as a corporation that was inexistence for them. I cannot repeat the exact words nor who said it, but I knew the name and it came from them.

Q Have you ever heard of an individual by the name of Spiro?

A Yes, I did.

Q Where did you hear that name?

A It was in the offices of Mr. Irwin Germaise and the name was mentioned by Mr. Rubinson.

MR. ROBSON: Your Honor, I hope we are not going to get involved with the problems of Spiro Agnew.

MR. WOHL: We intend to connect this up to the Stern-Haskell transaction, your Honor.

THE COURT: All right.

Proceed.

Q Could you describe what occurred concerning the name Spiro?

A Mr. Rubinson --

MR. FISCHETTI: May we have a date on this, your Honor?

THE COURT: Yes.

Q Do you recall when this occurred in Irwin Germaise's office?

A May, June or July.

Q Of what year?

A Of 1969. I'm sorry.

Q Who was Irwin Germaise?

A He was an attorney that Mr. Stein, Mr. Rubinson and Mr. Feiffer and I were familiar with and had dealings with, or at least I speak for part of the people I just mentioned.

Q Where was his office located at that time?

A I believe it was on Fifth Avenue or near Fifth Avenue in the fifties in New York.

Q Would you describe what you heard Mr. Rubinson do concerning the name Spiro?

A Well, he was--

MR. FISCHETTI: Judge, may we know whether this was a conversation between Mr. Rubinson and his attorney, Mr. Germaise, that he is about to testify to?

MR. WOHL: No, it is not, your Honor.

THE COURT: All right.

A Mr. Rubinson was attempting to make a call to Switzerland and--

Q What did you hear him say?

A I heard him call the Overseas Operator and mention that he would like to speak to Zug, Switzerland. It sounded like Zug, like Z-u-g. And that he wanted to place a call to Spiro.

Now I did not know whether it was a first name or second, but that was the extent of it.

Q Did you hear what happened next?

A No, I did not.

MR. ANDREWS: Objection to the testimony and move that it be stricken as irrelevant.

Your Honor, what is that, nothing but innuendo and prejudice. You bring Switzerland into a case, you must be dealing with thieves, your Honor.

That is irrelevant, that conversation. That's all it was, Judge, the most unprofessional thing I have ever heard of.

With all respect, I move that the jury be instructed to disregard it.

MR. WOHL: Your Honor, after Mr. Andrews' additional, what I consider highly unprofessional and improper comment, I would like to explain what the relevance

of it is.

MR. CHESTER: I object to him explaining it. Let this witness testify.

MR. WOHL: This isn't --

MR. ANDREWS: Let a witness tell us that it is relevant.

MR. WOHL: This witness doesn't know why it is relevant. We epxect to have otherproof that these defendants were attempting to sell Stern-Haskell stock --

MR. FISCHETTI: Can we have a side bar? Is he summing up now, Judge? Can't we do this at the side bar? Isn't that the right way to do that?

THE COURT: If you lawyers are through shouting at the same time -- do you have something to say, Mr. Keegan?

MR. KEEGAN: Your Honor, I think we should have a side bar conference so Mr. Wohl can make an offer as to the relevancy of that little snatch of conversation.

THE COURT: We can have that without shouting and yelling.

MR. KEEGAN: I agree, your Honor.

THE COURT: All right. The jury is excused now until 2:15 for lunch.

(The jury left the courtroom)

(The witness left the courtroom.)

THE COURT: What is this all about, Mr. Wohl?

MR. WOHL: Your Honor, we expect to introduce at a later time a letter from Mr. Feiffer addressed to an individual named B. Spiro in Switzerland containing an offer to sell Stern-Haskell stock.

THE COURT: And the witness has just testified to a telephone conversation which he overheard someone making to Switzerland.

MR. WOHL: To Switzerland and attempting to reach an individual, the same individual, Spiro, and this time it was Mr. Rubinson.

THE COURT: I see.

MR. FISCHETTI: He said the same individual, your Honor.

MR. WOHL: If the jury wants to think it was--

MR. FISCHETTI: Is that a matter that your Honor might consider? The testimony is that Mr. Rubinson placed a call to Switzerland, asked for a man by the name of Spiro. Now another witness is going to get on the stand and he is going to attempt to introduce a letter with the name Spiro on it, and he just said to the Court it's the same man. Does he have independent proof of that, Judge, or is that the type of testimony we are going to get in this case? How many people are named Spiro in England or

Switzerland or America?

THE COURT: It's circumstantial evidence from which the jury can infer that it is the same person.

MR. FISCHETTI: Is he going to produce Spiro to find out if he received the letter?

MR. CHESTER: And I don't understand --

THE COURT: I will look at the letter when it is introduced.

MR. FISCHETTI: The point is if he continues on this line he has an attempted conversation with a person named Spiro. He is then going to come in with a letter with the same name Spiro on it and connect it up. I say the connection is not valid.

THE COURT: What letter is this?

MR. WOHL: It is a letter signed by Mr. Feiffer.

THE COURT: Addressed to Spiro.

MR. WOHL: Addressed to Spiro.

MR. FISCHETTI: Can he say it is the same Spiro?

MR. ANDREWS: Can I respectfully be heard, your Honor? I should like to be heard, your Honor, on the point.

THE COURT: All right.

MR. ANDREWS: I detected from Mr. Wohl's state-

ment to the Court we are going to see another onion skin letter unsigned, not authenticated, and I call on him now to show us his good faith, to show us a signed letter by Mr. Feiffer.

If he doesn't have it I am going to ask for a mistrial right now on the ground we have been prejudiced by the fact that Switzerland has been interjected in this case without a good faith basis by the prosecutor.

THE COURT: That motion is denied. We will recess now until 2:15 for lunch.

MR. WOHL: Your Honor, I have one brief application, and that is I think that we have gotten to the point where Mr. Andrews continually makes comments in front of the jury that are obviously unseemly types of comments, frequently invoking his reading of the canons of ethics and what is proper professional behavior tacked on to almost every objection.

I would submit that Mr. Andrews' comments of that sort are indeed u nseemly and improper and should not be made in front of the jury and I would request that the Court instruct him to desist from that.

MR. ANDREWS: May I be heard?

THE COURT: Yes.

MR. ANDREWS: I would again refer this court to

canon of ethics of the American Bar Association which I brought to your attention in chambers this morning, and I think it is another example of Mr. Wohl violating that canon by putting a question to a witness that he cannot prove by independent evidence, the question containing the piece of evidence he wants the jury to consider.

I again call for the signed letter to somebody in Switzerland regarding Stern-Haskell stock by somebody in this conspiracy. If he's got it, let's see it.

THE COURT: A signed letter to somebody in Switzerland? That would probably be in Switzerland.

MR. ANDREWS: Or some piece of evidence that somebody got a signed letter. If he is going to come in, bring Switzerland into this case, and we know, let's bring our common sense to the courtroom, what people, laymen, think when they hear the word Switzerland and stock certificate, if he is going to baseit upon the testimony we have heard now and a piece of onion skin letter like we have seen come into evidence before, then I say he is in bad faith under this canon of ethics. I am not surprised he resents or he doesn't like the accusation, but I say he is.

THE COURT: He has already said he is going to introduce a letter. I don't know what you could mean by

bad faith.

MR. ANDREWS: Finally, your Honor, we haven't seen --

MR. CHESTER: Can we see --

THE COURT: We are not going into this any more because I have an appointment in my changers at 12:45 and I have ruled on it.

With respect to that outburst which we had a while ago, lawyers shouting all at one time, if that happens again any lawyer who does that, or defendant, is going to be held in contempt of court.

As for you, Mr. Keegan, the next time you comment sarcastically on any ruling that I make you are going to be held in contempt of court. You understand that?

MR. KEEGAN: I understand --

THE COURT: It is not your professional responsibility to criticize a ruling made by the Court. You have an appeal from any ruling that I make.

MR. KEEGAN: Your Honor, I didn't mean to criticize any ruling.

THE COURT: Well, you did, and you have done it before in the presence of this jury.

MR. KEEGAN: Your Honor --

THE COURT: And now lawyer is permitted to down-

grade a Judge by making it appear that a Judge is erroneo
in her ruling.

MR. KEEGAN: Your Honor, I am sorry if you have that impression.

THE COURT: Well, let me warn you it better not happen again.

(Luncheon recess.)

AFTERNOON SESSION

2:20 p.m.

(In the courtroom. In the presence of the jury.)

S A U L S. W E I T Z M A N, resumed.

THE COURT: You may proceed, Mr. Wohl.

Q We have talked before this session today, that is, you and I have, is that right, Mr. Weitzman?

A Yes, sir.

Q On any occasion when we have talked, have I shown you any documents with this name, B. Spiro, on it, or Spiro?

A No.

Q Did you have an occasion when Mr. Rubinson told you who Irwin Germaise was, or what Mr. Rubinson's connection with him was?

A Yes.

Q When did that occur?

A It was either in January or February of 1969.

Q Where?

A He told me about Mr. Germaise in Miami. That was the first time.

However, I met him in New York.

Q On this occasion, what did Mr. Rubinson tell you

about Mr. Germaise?

Your Honor, we are offering this conversation only against Mr. Rubinson.

THE COURT: All right.

A He told me that -- he suggested that we use Mr. Germaise to draw up the offering circular to make Blank a public company. He said he had done quite a bit of business with Mr. Germaise in the past and felt he would be the right man for the job; for various reasons.

Q Did he tell you what those reasons were?

A Yes. He told me that Mr. Germaise, while unlike many other attorneys, would extend himself, would go out on a limb, will perform certain duties to his benefit or our benefit.

Q Whose benefit?

A Well, in the past it was to his benefit, but for the future it would also have involved me, because my company would have been involved.

Q When you say "to his benefit," whose benefit are you referring to?

A To Mr. Rubinson's benefit.

Q Did he explain what he meant by go out on a limb?

A Well, he told me that in the past he gave him

some very good letters of opinion on certain matters.

MR. WOHL: I have no further questions of this witness, your Honor.

* * *

Q Did we meet again in Florida?

A Yes.

Q What was said at that meeting?

MR. CHESTER: Judge, may I have the time of this, because I want to know.

He said, "Did we meet in Florida?"

I would like to know, if possible, you know, a month and a year.

THE COURT: Give us as best you can recall when it occurred.

THE WITNESS: Within one week after the first meeting you, Mr. Rubinson, Sid, Mr. Sidney Stein and Mr. Albert Feiffer and I met in Miami at Mr. Feiffer's home.

Q What was said at that meeting?

A We discussed my company, all of us, at which time you and Mr. Stein simultaneously-- now I say simultaneously, somebody could have said one word before the other, suggested that we make a proposition to me whereby you, Mr. Stein, and Mr. Feiffer would purchase a percentage of my business - I think the figure came up at that time of 50% - in return for some stock that you had, Calculator Computer stock, which was a publicly traded stock, and you told me this stock would be free and tradeable, and when I say you, you and Mr. Stein, and that under these conditions numbers

would be created so that I would be able to sell the stock.

However, since I had a loss, carryforward loss, carryforward loss from the past on my tax returns, whatever proceeds I received from the sale --

Q All right, that is enough. I don't want to pursue that line of questioning any longer.

MR. WOHL: I think he is giving the conversation, your Honor.

MR. RUBINSON: The conversation is getting far afield from what I asked, and I would rather stop the conversation now because I think that might have taken place at another meeting, and I will get to it.

MR. WOHL: I will object to Mr. Rubinson making factual statements.

THE COURT: Yes.

MR. WOHL: I think if the witness is giving the conversation that Mr. Rubinson asked for, he ought to be allowed to complete it.

THE COURT: Yes.

MR. RUBINSON: Your Honor, I would like to say this. Mr. Wohl has much more experience than I have. He is not here trying to defend himself. I am. I will try and question this witness the best way I know how, and if Mr. Wohl will refrain from interrupting, then maybe the

jury will be able to get a true picture here of what happened on the defense side, not only what happened on the plaintiff's side.

THE COURT: All Mr. Wohl has suggested, Mr.Rubinson is that you not cut the witness off when he is answering the question, which you put to him.

Now you put a question to Mr. Weitzman, you asked him what was said at a meeting;at whose house was it again?

THE WITNESS: Mr. Feiffer's house.

THE COURT: Mr. Feiffer's house, and he was telling us what happened or what was said, and you cut him off.

MR. RUBINSON: Well, we have the big problem here, you told me to take notes, and I have quite a few pages, and you only gave me two hours to try to defend myself.

THE COURT: You still can't cut a witness off. You can't conduct any trial that way, because the reporter can't get it if you interrupt the witness who is talking.

You have to wait until the witness has finished his answer before you put another question.

So you let Mr. Weitzman finish his answer to your first question. And then you may put another question to him.

MR. RUBINSON: May I ask Mr. Weitzman to be brief since I only have two hours?

MR. WOHL: No, I will object to that.

He was asked what was said, and he can't give it any faster than it takes to say it.

THE COURT: Yes.

Proceed, Mr. Weitzman.

A And I was told that when I sell the stock under your directions and Mr. Stein's and Mr. Feiffer's, then I would return in cash two-thirds of the proceeds from the sale of that Calculator Computer Leasing stock.

That is basically what was discussed at that meeting.

* * *

* * *

Q Did you eat dinner in his house?

A Yes.

Q Were you taping him at that time?

A No.

Q I don't mean the same day, while you were ea
dinner.

Do you have a tape on Mr. Germaise?

A You said at that time.

Q Well, you know what I mean.

A No, I don't know what you mean.

Q Do you have a tape on Mr. Germaise?

A That occurred somewhat after that.

Q But you do have a tape on Mr. Germaise?

A I certainly do, yes.

Q From your own knowledge and your own recolle
tion, do you know --

MR. RUBINSON: I'm sorry, withdrawn.

Q Did you give that tape to the Securities Exc
Commission?

A All the tapes I had, yes.

Q From your own knowledge, do you know why we didn't hear that tape today, from your own knowledge, not from his knowledge.

MR. WOHL: Objection, your Honor. There is no way this witness could know how the decision was made.

MR. RUBINSON: He took the take and heard it.

THE COURT: Just a moment, Mr. Rubinson, Mr. Wohl is conducting the Government's case, and it is Mr. Wohl's decision as to what tape will be played and what will not. This witness doesn't have anything to do with that.

MR. RUBINSON: I'm sorry, your Honor. Am I to understand that Mr. Wohl will not show that we are not guilty by playing certain tapes, deleting them, and showing other tapes out of context, is that what I'm led to believe here at this time?

MR. WOHL: Your Honor, duplicates of all of Mr. Weitzman's tapes have been given to Mr. Rubinson.

THE COURT: Yes.

MR. WOHL: So that he can offer into evidence any tape he wants to offer.

THE COURT: You understand that, Mr. Rubinson.

MR. RUBINSON: No, I really don't but I will

proceed.

THE COURT: Just a moment then. I will explain it to you.

Mr. Wohl has said that any tape that Mr. Weitzman made of you has been turned over by Mr. Wohl.

MR. RUBINSON: Not of me, made of Mr. Germaise.

THE COURT: All the tapes is that it.

MR. WOHL: All of Mr. Weitzman's tapes were turned over to Mr. Rubinson, that's right, your Honor.

THE COURT: So that all the tapes were turned over, so if you have a tape which you want to play, which you say suggests your side of the story, then you can play it. Nobody's preventing you from doing so. Do you understand that?

MR. RUBINSON: Yes, ma'am.

THE COURT: All right.

Q Mr. Weitzman, how old are you?

A 49.

Q In your direct testimony, Mr. Weitzman, you said that you moved to Florida in 1966.

A I believe that was the year, yes.

Q What did you do before you moved to Florida, Mr. Weitzman?

A From '64 to '66 I was in one venture that had

do with model hobby centers.

Q Did you make money in that venture, Mr.Weitzman?

A No, I had lost some money in that venture.

Q What did you do before that, Mr. Weitzman?

A Before that, from 1950 to 1964, I was the President and then Chairman of the Board of a business machine company.

Q That is 14 years, is that correct?

A Well, yes, there was an evolution, though, that took place.

Q Was that a public company, Mr. Weitzman?

A It did become a public company, yes.

Q You did an underwriting on that company, is that correct, Mr. Weitzman?

A Yes, that's correct.

Q How much was the underwriting for, Mr. Weitzman?

A There were two underwritings.

Q In total?

A The first one was in 1959, and that was for $300,000.

Q Yes?

A The second one in 1961, was for two and a half

million dollars.

Q Now, we are talking to a man, Mr. Weitzman, you consider yourself very sophisticated, that took in almost three million dollars, is that correct, Mr. Weitzman

A Repeat the question, please.

Q I say would you consider yourself a sophisticated man in securities after taking in $3 million in two underwritings?

A In the legal aspects of it, yes.

Q So in your opinion you would know what's legally correct and what's legally incorrect?

A Yes.

That's why I had lawyers.

* * *

* * *

Q What did you sell your interest for, how much money, Mr. Weitzman?

A I sold my 53,000 shares of stock for $530,000.

Q Was that cash, Mr. Weitzman?

A Cash.

Q Cash, you received $530,000 in cash?

A Yes.

Q What is your educational background, Mr. Weitzman?

A I left high school in the sixth grade.

THE COURT: Would you want to read that answer, Mr. Reporter.

(Answer read.)

A Excuse me, in the third year.

Q That means you almost completed high school?

A Almost yes.

Q You never went to college?

A No.

Q In the 225 odd conversations you and I had, did there come a time when you asked me for help?

A Yes.

Q What type of help did you ask me for?

A At one time you told me you had a connection for

typewriters, to buy some typewriters, inexpensively that I might sell through the company. You introduced me to that party and I bought some typewriters.

I don't recall the amount.

There was a time when they, at Blank, my company, after being in registration for a long time, the telephone company was going to cut the telephone off, and if they did, it would have been a disaster, I asked you to lend me, I think it was $90, or something, something to that effect, to pay for it, or $200, I don't recall the exact figure.

Q If I say $1500, would that help your memory that you had a big telephone bill?

A It could have been. Of which I paid you back the next day.

Q Go ahead.

A. There was a time that came that I was not able to pay the rent while I was in registration.

You and your son and his partner assisted by buying the lease that I had on my company, including the option to acquire the building that my company was in; to also as collateral, to make sure that I paid back, I think the figure was $5,000, to your son and his partner, took a lien on furniture and equipment in my place of business that was based on twice the amount of my cost.

Q Was there interest on that loan, Mr. Weitzman?

A I don't recall.

Q If I said there was none, would you agree?

A It is possible. I said I don't recall.

Q It is possible I didn't charge you interest.

A And I'd like to finish. And as things got tougher, it was you and your son and his partner that were the first ones to close in with the sheriff and take the merchandise away from my place, thereby closing my doors.

Q To protect myself, is that correct? Answer yes

or no --

A You know why you did it, I can't. You know the reason, right?

Q Is this one of the reasons you are testifying here today, because there is a vendetta that you have?

A Yes, there is a vendetta but not for the reason --

Q Okay. I will come to the other vendetta, relax.

A Not a vendetta, but --

Q Relax.

A I am relaxed, Mr. Rubinson.

Q I know. I hope I am as relaxed as you are. But you are up there smiling, I am not smiling.

A I agree with you.

Q Thank you.

Now, I am going to ask direct questions. Did I assist you in getting a loan from a public company called Mastercraft Medical Industries by Foster Monaco, the President, for $10,000? Answer yes or no.

MR. WOHL: I object to this.

MR. RUBINSON: He said we are talking about loans your Honor. He couldn't come up with that one. I am just asking to refresh his memory.

MR. WOHL: I don't see where it is relevant.

THE COURT: What's it relevant to?

MR. RUBINSON: It's relevant to show his motive in sitting up there as to trying to testify against me and destroy my life. I am coming to loans that he never paid back that I had to pay back, for big sums of money.

THE COURT: All right.

A Would you repeat your question, please.

Q Was one loan a company, from a company called Mastercraft Medical Industries by a man named Foster Monaco, who was the President, for $10,000?

A You say you arranged yourself a loan?

Q I helped arrange.

A Possibly you helped, I don't know.

Q Did you get the $10,000?

A Yes, I did. Not I did --

Q Did your company, Blank Equipment Leasing?

A Yes.

Q Did you pay it back or did your company pay it back?

A No, the company went bankrupt.

Q Did there come a time when there was another loan by a company called House of Knitting, by Morris Gluck,

the President, for $15,000?

A I don't recall you participating in that one at all. Mr. Stein did.

Q Mr. Stein participated?

A Yes.

Q Wasn't that at the same time both loans were made?

A In the vicinity.

Q You mean vicinity, one week?

A Maybe one week, maybe one month, it's possible.

Q It's possible?

A Yes, it could have been either one.

Q It could have been probably, couldn't it?

A Okay.

Q Did you pay that one back?

A No. The company went bankrupt.

Q Were those loans made to you personally?

A No.

* * *

* * *

THE COURT: This is an offering circular as to what?

MR. RUBINSON: Blank Leasing Company. This is very pertinent now.

MR. WOHL: Your Honor, I would submit that it is not pertinent because this is not a Blank Leasing lawsuit.

MR. RUBINSON: Your Honor, I promise you that I will come to the point as soon as this gentleman will be responsive and tell us about these two people, these questions will come immediately one after the other. I will not delay. He is delaying. I am not delaying.

THE COURT: You want to know who the other person is, is that it?

MR. RUBINSON: No, I asked him if two names appeared in the offering circular.

THE COURT: He can answer that. Did two names appear?

THE WITNESS: Albert Feiffer and Arthur Dash, your nephew, Arthur Dash.

Q Oh, my newphew?

A Yes.

Q Thank you.

* * *

* * *

Q Well, I don't think a man would forget the word "nominee" in six or seven or eight years, do you think so?

A No, I know what a nominee is now, but I did not know in 1969.

Q I wanted to get out of you-- oh, you didn't know in 1969?

MR. WOHL: I object to Mr. Rubinson saying what he wanted to get, and making the commentary.

Q In December of 1968 when the Blank underwriting came out, the names of Arthur Dashowsky and Albert Feiffer were in that offering circular, in 1968?

A No. You have a very poor memory.

THE COURT: Just a moment, Mr. Rubinson.

You are not going into this Blank Leasing matter. It is irrelevant.

MR. RUBINSON: It is very important, your Honor, because nominees become important as to the questio that will go, because this witness intimated he didn't kno what a nominee was and he got stuck into something, he only got about $5,000 out of it, because the rest was give to B'Noth Jerusalem, who I was supposed to own, this religious organization that manufactured dresses or some-thing, and this man here, all your witnesses here, are

going to be vague in what they say about what's going to be understood here.

Q Mr. Weitzman, in the Blank underwriting that you stated that was started in March of 1969 -

THE COURT: Mr.Rubinson, we are not going into the Blank underwriting matter.

Would you please cross-examine the witness as to his direct testimony, what he testified to.

MR. RUBINSON: He did testify that there was a Blank Leasing Company.

THE COURT: He didn't go into that.

MR. RUBINSON: Oh, they wouldn't do that. That they wouldn't do.

MR. WOHL: I object to this.

THE COURT: I prohibited Mr. Wohl from going into it.

Q Did there come a time that you purchased 40,000 shares of a stock called Radio Hill Mines?

A Yes, sir.

Q In what year was that, sir?

A That was in the year-- it was April 25, 1969. I remember that date very well.

Q Answer yes or no. Was that amount for $140,000?

A That is correct.

Q Answer yes or no.

Did you pay for that stock? Yes or no. No

stories. I will come to your stories later. Yes or no.

MR. WOHL: Objection.

I object to Mr. Rubinson's making commentary.

MR. RUBINSON: I object to you. I want him to answer yes or no if he paid for that $140,000 worth of stock.

We are entitled to know that right here in this court.

MR. WOHL: Oh, we will know everything, Mr. Rubinson.

MR. RUBINSON: Oh, thank you, thank you. Here's my hand. Thank you.

MR. WOHL: I object to Mr. Rubinson making commentaries to the witness.

THE COURT: Yes. Mr. Rubinson, please do not comment.

MR. RUBINSON: No commentaries.

Q Did you pay for that $140,000 worth of stock; yes or no?

A How could I? You did not give me the money.

Q That is what I mean. I'm coming to it. I didn't give you the money. Now we will come to that. Who told you to buy the stock, Mr. Weitzman? Answer the name.

The little guy, the old man, or Albert Feiffer?

A Mr. Stein.

Mr.Stein. Okay.

Now we come to the infamous Mr. Stein.

Where is he?

A I don't know.

Q You don't know.

Was this the first time you became angry with me, Mr. Weitzman, yes or no? Because I only got a short time, and I got to cover--

A Was this -- I do not understand.

Q When you didn't get paid by Mr. Stein for the $140,000, did you get angry with me?

THE COURT: What?

Q Did you get angry with me, when you did not get the $140,000 from Mr. Stein?

A Yes.

Q Did I ever tell you that I was going to give you $140,000?

A No.

Q Do you think in your own mind that it is fair that I should be sitting here now, in your own mind, because you didn't get $140,000 from Mr. Stein to pay for the stock? Do you think that is fair now in your own mind?

THE COURT: Don't answer that question. He is not here to tell us what is fair and--

MR. RUBINSON: No, in his own mind.

THE COURT: Mr. Rubinson, this witness is not here to tell us what is fair and what is unfair.

He is here to testify to certain facts relating to Stern-Haskell stock.

Now if you want to spend your two hours going all over the lot, you do that. But at the end of two hours, you are going to have to sit down.

Try to concentrate on what he brought out on his direct examination.

MR. RUBINSON: Well, it is very difficult, your Honor, because everything is related, and this goes to the motive of his testimony, because of his involvement in another scheme with a defendant here who is not here, Mr. Stein, who told him he was going to give him $140,000 and didn't give it to him.

He came to me--

THE COURT: Let's not have any statement of facts about what you think occurred here.

MR. RUBINSON: I know what occurred.

THE COURT: Put a question to the witness.

MR. RUBINSON: Okay.

Q Was there a time that you got angry at Mr. Stein?

A Yes.

Q Did there come a time when Mr. Stein had you arrested?

A No.

Q What did Mr. Stein claim that you were going to do to him that he had you arrested?

MR. WOHL: I will object to that.

THE COURT: Yes. Sustained.

Don't answer that question.

MR. RUBINSON: I'm not going to ask him that question.

Q Did you threaten Mr. Stein at any time?

MR. WOHL: Objection.

THE COURT: Yes. Sustained.

MR. RUBINSON: I'm just trying to get to the bottom of this man's animosity.

THE COURT: Well, you could bring out what relates to you, not Mr. Stein.

MR. RUBINSON: Well, he put me in with a short man, another man, and an old man.

THE COURT: Just a moment. You have the right to bring out anything which you think shows that he has a motive for testifying against you, but not against other

people who are not here.

MR. RUBINSON: This is my whole case because he --

THE COURT: Never mind Mr. Stein. Concentrate on yourself.

MR. RUBINSON: I'm concentrating on myself, your Honor, because Mr. Wohl had this witness testify as to Stein, Rubinson and Feiffer, who said what, what said to who --

THE COURT: You are not permitted to go into his motive for being angry with Mr. Stein.

MR. RUBINSON: No, with me. I'm coming to that. I'm leading to it.

THE COURT: Concentrate on what you think shows he has a motive to testify against you.

MR. RUBINSON: That he said already, but I'm trying to strengthen the motive to show how --

THE COURT: Don't ask him about Mr. Stein,what Mr. Stein thinks.

Q Did you testify before the grand jury in this case?

A Yes, I did.

Q Did you know who the defendants in this case were at that time?

MR. WOHL: Objection.

THE COURT: I didn't hear the question.

MR. RUBINSON: I asked this gentleman here if he knew who the defendants were in this case at that time.

MR. WOHL: I object to that because obviously there weren't any defendants when he testified.

THE COURT: When he testified before the grand jury there were no defendants in the case at that point.

Only after the grand jury returned its indictment.

Q I will ask you if you know who the targets were in this case?

MR. RUBINSON: I want to thank them; I am getting a little help here.

A I know there were originally about fifty people listed.

Q Fifty people?

A Yes, approximately, or more or less, I don't know. A lot of people.

Q Was there any conversation at that time between you and the SEC or you-- you and the SEC, at that time, pertaining to that if you did tell a story here that they will not prosecute you on the Blank deal?

A Absolutely not.

Q Okay. Did you ever speak to the SEC about not

being prosecuted on the Blank deal?

THE COURT: On the what deal?

THE WITNESS: Did I ever speak to them?

Q Yes.

A Yes, I --

Q Oh, you did speak to them about about not being prosecuted on the Blank deal.

Thank you.

MR. RUBINSON: I did not hear what you said, your Honor.

THE COURT: I said I didn't hear what you said but you go right on talking.

MR. RUBINSON: I didn't hear you. I'm very sorry.

I'm trying my best.

MR. CHESTER: Wait a minute, I didn't hear all that.

Could that question and answer be read back?

THE COURT: Yes. Read the question and answer, Mr. Reporter.

(Record read)

MR. HIGGINS: May the record reflect that the witness had a large smile on his face at the time he said he had spoken to the SEC about not being prosecuted on the

Blank deal.

THE COURT: I didn't see it.

MR. HIGGINS: I did see it and as an officer of the court I so represent.

Q You mentioned on direct testimony regarding Stern-Haskell and Diston that you received 2000 shares of stock from each company, is that correct?

A That is correct.

Q And you testified that you gave under the group's directions the balance of the stock to a Jewish organization, a charitable organization called B'Noth Jerusalem, is that correct?

A Which stock are you referring to?

Q Of Diston.

A Diston. Yes, I did.

Q You received $1000 for that, is that correct?

A I received a check.

No, no, I didn't say that. I said I received a check.

Q You received a check for $1,000?

A Yes, but not for that.

Q Did I write the check?

A Not to my knowledge, no.

Q Did you see the check?

A Yes.

Q I think the check was entered in evidence, sir.

A Yes, it was.

Q May I have the check, please?

A How do I know if you wrote it or not?

Q Well, I'm going to ask you.

A Oh.

Q Is this the check in evidence, No. 65?

You can hold it.

A Thank you.

Yes, that is the check.

Q What is the name on the top of the check?

A B'Noth Jerusalem.

Q Who signed the check?

A A Mr. - - well, it is signed by J. A. Weiss, whoever that is. I don't know who it is.

Q Did you ever meet Rabbi Weiss from B'Noth Jerusalem?

A Not to my knowledge.

MR. RUBINSON: That will come out later.

MR. WOHL: Object to Mr.Rubinson's commenting about what is going to come out later.

THE COURT: Yes.

Q When you testified, and they entered into

evidence two yellow pieces of paper, that Mr. Wohl said that he wants to hold in evidence against me -- may I have those two yellow pieces of paper, please -- that is made out to Marinus Laboratories, a letter and another piece of paper, you testified under direct examination that after I left, you found them there, is that correct?

A Yes, that is correct.

Q Did you see me leave them there?

A Yes.

Q You saw me put these two pieces of paper there?

A Yes.

Q Could you identify whose signature this is, who wrote it?

A No, I cannot.

Q Do you know how I got this paper?

A No, I don't.

Q But you say I left it there?

A Yes.

Q Did you run after me to give it back to me?

A No.

Q Why?

A You were gone. And besides, if you want to know the reason --

Q Yes, sure.

A Okay.

Q Go ahead.

A There came a time when I started to accumulate information against you, Mr. Stein and Mr. Feiffer for certain damages and harm that were very extreme to myself, my family, my finances, and my business, to the point where I was being destroyed and I had to start protecting myself, I had to get all the facts so that I could present it to the proper authorities, to clear myself, to not put me into the same category as being a criminal, the same as you and Stein and Feiffer are.

Q Oh, thank you.

A I am not a convicted perjurer like you are.

Q Thank you.

A Right.

MR. FISCHETTI: Your Honor, I move for the withdrawal of a juror. This is Mr. Wohl's witness.

MR. RUBINSON: Thank you.

MR. WOHL: I submit it was responsive to a question.

MR. FISCHETTI: Sir, if he submits that is responsive to a question, your Honor, I don't know what to say in response to that comment.

I move most respectfully for the withdrawal of

a juror.

MR. ROBSON: I join in that motion, your Honor.

THE COURT: Motion is denied.

THE WITNESS: May I continue?

Q No, I want to ask you a question.

You brought up perjury --

A I didn't finish. You asked me a question. I didn't finish.

I have never been in jail.

Q You mean I was in jail?

A To the best of my knowledge, yes.

Q Tell the jury --

THE COURT: Do you want to pursue that?

MR. RUBINSON: No, I don't want to pursue it at all. He brought it up.

THE COURT: Let's pass it by.

MR. RUBINSON: He made me,in front of this jury right now, to show his venom, he said I was a convicted perjurer, and that I was in jail.

I cannot get a fair trial here, and I immediately request a severance on those grounds.

THE COURT: As the Government pointed out, you brought it out by asking the question.

MR. RUBINSON: I did not bring it out, your

Honor.

THE COURT: Read the question, Mr. Reporter.

(Record read)

THE COURT: Then he went on.

MR. RUBINSON: Because I was a convicted perjurer, he didn't want to give me back a piece of paper?

THE COURT: He explained what his conduct was.

Q Was I convicted at that time?

MR. WOHL: Objection.

Q Why was I convicted, Mr. Weitzman?

THE COURT: Just a moment, don't ask him about that any more. Don't ask him about that any more, Mr. Rubinson.

MR. RUBINSON: Then I'd like a side bar conference or whatever you call it.

THE COURT: Proceed with your cross-examination. I have denied your motion.

MR. RUBINSON: I cannot proceed unless I speak to you in private about this, to explain to the jury about this case.

THE COURT: No, we are not going to explain to the jury. You can't get a mistrial.

MR. RUBINSON: I'm not looking for a mistrial. I'm looking to speak to you in private on the side bar

where all the other attorneys can hear, because they should be appraised of the scum that they are sitting with.

THE COURT: Now, just a minute. We can't have any more remarks like that, Mr. Rubinson. You know that is improper, don't you?

MR. RUBINSON: Yes, Ma'am, but I --

THE COURT: Please don't make any more improper remarks. And the Court's ruling is that you can't get a mistrial as a result of a question which you put to the witness as to what his motives were for testifying against you, so your motion is denied, and we are not going to hear any more on it.

You are directed to proceed to another subject.

Q Did you ever meet a man called Ray Adiel - A-d-i-e-l?

A The name sounds familiar, but I don't recall meeting him.

Q I will describe him to you, maybe that will help you.

A Maybe.

Q He speaks with an Israeli accent, he is a dark man and has been in the securities business, lived on a houseboat in Biscayne Bay.

MR. WOHL: I will object to this, your Honor.

MR. RUBINSON: I'm trying to refresh his memory because this is important.

THE COURT: We will take our afternoon recess at this time.

The jury is excused for fifteen minutes.

(The jury left the courtroom)

THE COURT: All right, the witness may come down, fifteen minutes.

(The witness left the courtroom)

THE COURT: What is this man you are asking him about?

MR. RUBINSON: Your Honor, he is a gentleman that had me convicted of perjury.

THE COURT: No, the man you were just asking him about, what is that all about?

MR. RUBINSON: Ray Adiel was involved in a scheme with this gentleman for blackmail.

Don't make a face. I will bring it out.

THE COURT: Has this witness been convicted of blackmail?

MR. RUBINSON: No, Ma'am. Not that I know of. Maybe he has. I don't know.

THE COURT: Then let me tell you this. You can't bring out any conduct of this witness of that kind which

did not result in a conviction.

Do you understand?

MR. RUBINSON: Yes, Ma'am, but on the same token. he said I was a perjurer when I was not convicted of perjury at that time.

He said that I was convicted of perjury, and I was not. And he said I went to jail, and that was five years later. I went to jail for six months. And here I am today, because of this man with his venom, and I'm trying to bring out that he tried to kill Mr. Stein, and he blames me. This man is deranged.

I'm going to come to psychiatric aspects soon, that he had a psychiatrist, he wanted to kill himself. I saved him. I am trying to bring all these things out.

THE COURT: Just a moment.

Your defense was, and you pursued it, that this witness had a motive to testify against you, that he disliked you, he had a lot of reasons to be against you, and you wanted to bring all that out, which he did, so you brought this on yourself.

MR. RUBINSON: No, I did not.

THE COURT: By pursuing this with him.

MR. RUBINSON: I take exception to that. And I wish the court record would show --

THE COURT: It is all right for you to bring it out, but he brought this out pursuant to your design to show thathe has a lot of reason to be against you, and he certainly has brought it out.

MR. RUBINSON: I'd like to make one closing statement.

THE COURT: I'm not going to hear any more on it. I'm not going to hear it any more.

MR. ANDREWS: May I be heard on an application for a mistrial?

THE COURT: No, I am not going to grant a mistrial for anyone else for something this defendant did deliberately, and the record will disclose his conduct, which was similar to the witness making remarks.

He called Mr. Sten Nordin a crook right here and nobody moved for a mistrial, or anything like that. Nobody ever said, "Judge, will you please prevent him from saying things like that in open court?"

So I'm not going to hear any motion for a mistrial from anybody else.

MR. ANDREWS: May I state my grounds for the record?

THE COURT: No, you may not. I'm not going to hear any more. The motion will be denied.

MR. HIGGINS: Your Honor, I do not have a motion. I just want to inquire of the Court, this man apparently has been engaged in some other activity which on its face was criminal activity, contemporaneous with the acts about which he testified in 1969.

Your Honor, I think under almost hornbook law in the Second Circuit, cross-examination of a witness as to prior criminal activity, regardless of whether it is reduced to a judgment of conviction, is always permissible. It goes to motive, your Honor: The U.S. v. Wolfson, U. S. v. Bananno, numerous other cases, your Honor, defense attorneys are permitted and we submit it is error to limit cross-examination of a witness as to criminal activity at or about the time which he has testified to on direct examination.

That is hornbook law, your Honor.

THE COURT: Well, he asked him about his speaking to the SEC about not prosecuting him for the Blank matter. Is that what you are talking about, to show that he was engaged in criminal activity, that the Government knows about, and he is not being prosecuted for?

MR. HIGGINS: Not Blank, your Honor. There is other activity I think Mr. Rubinson was alluding to, as to this man's participation in some other activity that

Mr. Rubinson was referring to, which resulted, in part, in some of Mr. Rubinson's difficulties with the Government.

I am not, again, trying to represent Mr.Rubinson.

THE COURT: No, this very last thing, let's take that, that he said that this witness was involved in some kind of blackmail.

MR. HIGGINS: Yes, your Honor.

THE COURT: What do you say about that?

MR. HIGGINS: If Mr. Rubinson can elicit, and there is a good faith basis for the question, evidence of this man's criminal activity back at that same period of time, it is perfectly proper for Mr. Rubinson to go into it on cross, your Honor.

THE COURT: He has to show that the Government knows about it and that that was a part of the Government's promise to this witness that he would not be prosecuted for that particular criminal activity.

That is correct. If that is what you are trying to get at.

MR.HIGGINS: Your Honor, if the Government has knowledge of it, but it doesn't necessarily have to be part of the deal that the witness has reached with the Government. This goes to the expectation of the witness, your Honor, the motivation of the witness, to testify; his

hope, his desire that he may not be prosecuted by any Government agency.

That is U. S. v. Padgett, your Honor.

THE COURT: You go get the case on the recess that shows he can talk about all kinds of criminal activity that the Government doesn't know about and didn't promise him anything about --

MR. HIGGINS: The Government knows about, but the Government need not have given a promise on it.

THE COURT: Wait a minute, does the Government know about this blackmail?

MR. HIGGINS: Very well might have.

MR. WOHL: I certainly don't know about it. I never heard about it.

THE COURT: That is what I'm getting at now. I said it would have to be criminal conduct that the Government knew about, and you said that is U. S. against Pagent. They don't have to know about it. Now you are changing it. Now which is it?

MR. HIGGINS: I said U. S. v. Pagett stands for the proposition that the Government need not have given a promise.

THE COURT: But they must know about it.

MR. HIGGINS: Yes.

THE COURT: Then we don't disagree as to what the law is.

MR. WOHL: Your Honor, there is one other thing

I think ought to be on the record here, and that is that as to some of this criminal activity that Mr. Rubinson seems to want to go into, in my view, if he were allowed to go into it, it would be a disaster for some of the other defendants because the other defendants were engaged in that criminal activity.

For example, the Blank transaction is, may be a criminal transaction, but if it is, as I understood it, Mr. Gardner, Mr. Higgins' client was involved in that, and it would seem to me that first of all your Honor's ruling is entirely correct, that if the witness has not been made any promise and doesn't feel any motive to testify for a desire of leniency it cannot be brought out, and in addition in this kind of circumstance it would be particularly wrong to bring out that sort of thing where it would jeopardize another defendant's rights.

THE COURT: Yes. Now, Mr. Rubinson, are you listening?

MR. RUBINSON: Yes, ma'am.

THE COURT: When the witness comes back on the stand after the recess, you can ask him whether the Government has promised him that he would not be prosecuted for certain past activities of his.

Do you understand that?

MR. RUBINSON: Yes, ma'am.

THE COURT: And he is to answer. If he doesn't give a full answer, then Mr. Wohl has a duty to tell you what matters were discussed. Do you understand that?

MR. RUBINSON: Yes, ma'am.

THE COURT: And what the Government has promised him in exchange for his testimony here. Is that clear?

MR. RUBINSON: Yes, ma'am. I'd like to make one application.

THE COURT: Just keep that in mind, and then you can go into anything he tells you about. Just ask him that, that is all.

MR. RUBINSON: Yes, ma'am. I want to make an application, because we are not going to have this problem. I see that I am being overwhelmed by Mr. Wohl and your Honor. I would like to request at this time that you appoint me an attorney to protect me at this point because the jury heard that I'm a perjurer, the jury heard that I went to jail, the jury heard this and they heard that. I cannot cross examine this man anymore. I don't feel capable.

THE COURT: Well, I have told you that no defendant can get a mistrial as a result of his own conduct.

MR. RUBINSON: I did not ask for a mistrial at this point.

THE COURT: And that was your strategy to have this man bring out a lot of reasons for his being against you and as a result of that he brought that out.

MR. RUBINSON: Your Honor, he said I was a perjurer and I wasn't at that time. He made the jury believe a lie. I don't know how to make this lie right. I am not equipped to do it.

THE COURT: You asked the question which brought it out --

MR. RUBINSON: It shows I'm not equipped.

THE COURT: --a question which you should have seen would lead to that. You could have foreseen that he might say something like that.

MR. RUBINSON: If I could have foreseen that he would have said something like that, I would be an attorney. I am not, so I wanted him to say why he didn't bring the piece of paper, he said because he went out. Then he figured in his own mind this smart fellow that he was going to bury me once more, he's still got the same shovel.

So I specifically requested I cannot cross examin this man any more, I'm not equipped to match wits with Mr. Wohl, I'm not equipped at all, and I would rather not, I would rather at this time respectfully request an attorney to represent me because of all these things that are

happening here.

THE COURT: I already ruled that you were capable of employing your own attorney.

MR. FISCHETTI: I have two brief applications on non-related matters. The first one being, your Honor, that we had an agreement with Mr. Wohl that at the conclusion of direct examination of any witness, more particularly, a co-conspirator, that under U. S. against Pfingst and U. S. against Giglio, he would inform defense counsel whether or not any promises in any manner, shape or form, have been made to this witness while testifying.

He finished his direct rather quickly. I didn't request a side bar because it is not my time to cross examine. I now request at this time --

THE COURT: Did you get the 3500 material for this witness?

MR. FISCHETTI: Yes, Judge, but it may not be in the 3500 material. I'm asking for his representation. He said he would give it to us at the end of each direct on each witness.

THE COURT: You want it now what the Government promised him?

MR. FISCHETTI: What if anything the Government promised Mr. Weitzman in return for his testimony.

THE COURT: All right.

MR. WOHL: The answer to that as far as I know is nothing, your Honor, and I think if anything had been promised I would know.

MR. FISCHETTI: Thank you.

Judge, my second application is this: In regards to Mr. Rubinson's question which brought the response that he was a convicted perjurer, this Court is well aware of my pretrial motion I made in U. S. against Puco, that Mr. Haskell has a prior conviction. I am well equipped to protect my client in that regard under my cross examination. However, your Honor, if Mr. Rubinson, and I say this with all due deference to him, sitting at counsel table, continues in this regard, and the witness states from that witness stand under oath any other convictions or a conviction regarding my client, I'm going to be severely prejudiced, and on those grounds, your Honor, I would respectfully ask for a severance.

THE COURT: Well, the U. S. Attorney can instruct him now not to bring out any conviction of any other defendant here.

MR. FISCHETTI: Then I so request, Judge. Thank you.

THE COURT: All right.

MR. KEEGAN: Your Honor, I want to be clear on something so I don't violate whatever the Court has instructed Mr. Rubinson. It's my understanding from Mr. Rubinson that this witness has a tremendous hatred for Rubinson and Stein and he doesn't really differentiate between the two. And on one occasion he went to Stein's apartment with a gun and threatened him --

THE COURT: Wait a minute. What did you say?

MR. KEEGAN: Weitzman went to Stein's apartment with a gun and threatened to kill him. Mr. Rubinson, I believe, saw it but I'm not sure of that. He has testified to this.

THE COURT: Where?

MR. KEEGAN: Weitzman has admitted to being arrested by Stein on a complaint.

THE COURT: Yes, that was brought out, but I didn't hear anything about a gun.

MR. RUBINSON: Yes, you didn't let me finish, your Honor.

THE COURT: Was that brought out, a gun? I didn't hear that.

MR. KEEGAN: Just a threat.

MR. RUBINSON: I was coming to that.

MR. WOHL: If I may state, your Honor, this is

a claim I think that's been made by Mr. Rubinson before. There has not been a full investigation of it so far as I am aware of. I think that if the witness is questioned on this, the witness is going to deny it.

Now, in any event, it would seem to me that it falls within the category of an alleged bad act that does not amount to a conviction. The only other idea might be that it shows some kind of venom or animosity, but the problem is that this, even the story that Mr. Rubinson tells, as I understand it, goes to a venom against Mr. Stein, who is not a defendant on trial.

THE COURT: Yes.

MR. WOHL: And therefore I don't think that it would be proper to get into litigation over whether this incident did occur in this trial.

MR. KEEGAN: Your Honor, Mr. Weitzman has admitted that he was arrested by New York City police detectives on a complaint from Stein, that Stein had been threatened by Weitzman with a gun.

Now, I think it definitely goes to bias, what greater proof can you have that Weitzman has it in for Stein, and he does not differential in his mind between Stein and Rubinson, and to a lesser extent Feiffer. He thinks of them as the same person. They all did him dirty and that is his

motive.

THE COURT: You want that brought out, is that it?

MR. KEEGAN: Yes, sir. He can deny it and the jury can decide whether the denial is credible or incredible, but we are entitled to ask about it. They may have decided it didn't happen because Mr. Weitzman said it didn't happen.

On the other hand, they may say it did happen, and that's one reason he's here to sink these people, that his hatred is so much that he, an ordinary businessman, resorted to getting a gun and threatening to kill another business associate.

MR. WOHL: I think, your Honor, it's understandable that the hatred, if you want to call it that, is directed against Mr. Stein, at least as far as the gun incident goes, if it ever occurred. And consequently, and it is the whole point of the rule that you have to have a conviction to avoid getting into these little side trials like this, because it would seem that we are going to get into a litigation over whether this occurred or not. And I would certainly submit that it might be a somewhat stronger case if Mr. Weitzman had allegedly gone after one of the defendants here on trial with a gun. But there is no claim of that whatever.

MR. KEEGAN: Your Honor, you don't have to have a conviction. We are offering it for bias and motive to testify, hatred of these defendants. As far as the separate trial goes, we are stuck with his answer. If he says no, that is the end of it. That question will take all of 30 seconds.

THE COURT: All right.

MR. FISCHETTI: And we are bound by his answer, as I understand the law, Judge.

MR. RUBINSON: I would like another question that I was coming to. There was another co-conspirator here called Harry Silbers that broke up the fight where he went after Stein with a knife. Now, I tried to differentiate Stein, who is this big and bald (indicating), from me and from Feiffer. I don't know why in the world an intelligent man like that can't be responsive and say it was Stein, Rubinson or Feiffer, not, bup, bup, bup, bup. He's got to say what it was. I can't stand here and let a man talk about three people at one time when we don't even look alike, when we don't act alike, and it will come out your Honor, on Mr. Stein's testimony, in his 3500 material, and when he testified in the case, that I was not a business partner of his. But until Mr. Stein gets to this point, and I'm sure Mr. Wohl read this testimony, Mr. Stein gets to the point

of coming here, this jury don't see him, they don't see number one madman, they see me, and they keep talking about me.

THE COURT: They plan to call Mr. Stein. His name is listed as a witness. Is he coming?

MR. WOHL: Yes, he is coming.

MR. RUBINSON: He's a defendant. He has to come.

THE COURT: No, he's not on trial.

MR. RUBINSON: Oh, he pleaded guilty.

THE COURT: He'll be here to testify. But the point is that that has to do with Mr. Stein again, and not with you. You say Mr. Silbers went after Mr.Stein with a knife, is that it?

MR. RUBINSON: No, Mr. Weitzman went after Mr. Stein, and Mr. Silbers, another co-conspirator, stopped the right, which we are going to get out in testimony later.

But I'd like to be able, somebody should ask him if he ever went after Mr. Stein on other occasions. So we don't have to bring the knife in or what he tried to do on other occasions. What I'm trying to do here, your Honor, is one simple thing.

This man took 1969 tapes and put them in context the way he wanted them. He was successful enough in

front of Judge Mansfield, in a civil case, to get me convicted of perjury, which Judge Brieant threw out the counts, fined me $2,000 on one count, and without anything.

In other words, Judge Brieant said in his notes in the closing that it was not a relevant perjury, all I did was repeat what Mr. Stein said.

Now, It becomes that I'm a perjurer, and all I did was repeat what Mr. Stein said. Then he says I went to jail for --

THE COURT: You asked him if you went to jail.

MR. RUBINSON: I was glad he said that, you know why, I just wanted to bring out another view, that this man will say anything at any time, wasn't responsive, makes speeches, was not responsive under my simple cross examination, that I can't protect myself in front of Mr. Wohl and witnesses who can match or have more brains than I have.

THE COURT: Well, as I pointed out earlier, you know, Mr. Rubinson, you made similar statements when the witness Nordin was on the stand. You called him, what did you call him, the record will disclose what you called Mr. Nordin, didn't you?

MR. RUBINSON: Yes, ma'am.

THE COURT: You called him a crook.

MR. RUBINSON: We all saw that, too.

THE COURT: That is what I'm saying. That is what that kind of thing will lead to. You can bring out, as I told you, that this man has a motive to testify for you, but you have to realize that stuff might come out that might backfire. And that happened here.

MR. RUBINSON: I was only looking for the truth in this case. I was not looking to bury him. I think I was very courteous to this gentleman who was sitting on the stand, Mr. Weitzman. I wasn't looking to get him in trouble. I was just trying to bring out facts in Blank that there were nominees, that he knew what nominees were, that he was a sophisticated man, and all this ooh, ah, ah, that he goes along with is just to confuse the jury, because he convicted us on two occasions with this -- convicted me on two occasions with this type of testimony, so here I am faced with a man that will do anything -- here is a man involved in criminal acts that never even got touched.

He asked the SEC in here --

THE COURT: Let's not go on with this. I asked you to ask him what promises the Government had made to him that he would not be prosecuted in other cases, remember that? You can ask him that.

MR. RUBINSON: I can't ask him anything more because --

THE COURT: You see, I tell you what to do to help yourself.

MR. RUBINSON: Because I'm afraid of his answer and I won't know how to respond and I'm getting involved deeper in something I don't know how to respond to.

THE COURT: Did you hear Mr. Wohl say that the Government had not promised him anything? But you could nevertheless ask the witness.

MR. RUBINSON: I heard what Mr. Wohl said, your Honor, and with due respect to him, he is an officer of the Court, and he is a very intelligent man, but I know that Mr. Wohl also put in two yellow pieces of paper, in evidence against me, that has nothing to do with me. Now he knew that. So Mr. Wohl is not playing this game square and fair.

THE COURT: All right, now, you are going to go too far, Mr. Rubinson.

MR. RUBINSON: Why, nobody is here, the jury is not here, your Honor.

THE COURT: Well, there are other people in the courtroom and I can't permit you to make statements charging in effect, a U. S. Attorney with a criminal act, unless you have some basis for it. So just don't continue with that unless you can prove it.

MR. RUBINSON: Yes, ma'am, I am just going to sit down now. Thank you. I'm sorry I interrupted.

MR. WOHL: Your Honor --

THE COURT: What is this, Mr. Higgins?

MR. HIGGINS: Your Honor, I just make available a copy of U. S. v. Pagett.

THE COURT: We agreed on that. We agreed on U. S. against Pagett, that the Government would have to know about this criminal activity. There is something else in there.

MR. HIGGINS: There is additional discussion in the case, your Honor, which deals on the scope of cross examination of an accomplice witness, your Honor. I think if your Honor glanced at it during the next few minutes that are left in the recess, your Honor might reconsider, particularly.

THE COURT: Reconsider what?

MR. HIGGINS: Your Honor's ruling to what extent we can cross examine this witness on whether or not he did purchase a gun, and went out to threaten Mr. Stein with that gun.

THE COURT: I said they could ask that Mr. Higgins.

MR. HIGGINS: Also, your Honor, on whether or

not he was engaged in any blackmail activity at or about the time he testified--

THE COURT: No, because the Government says it doesn't know about that, unless you have some evidence the Government knew about that particular thing you can't bring that out. Now, we have to be specific here. We can't be just general on these things. If you have something specific, I will rule on it. I have already ruled in response to Mr. Keegan that they could ask him about the gun matter.

MR. HIGGINS: If I understand your Honor's ruling.

THE COURT: And they're bound by the answer. The Government has already said they expect he's going to answer no, it didn't happen. But I said they can ask that. As to this blackmail thing, the Government would have to know about it, under U. S. against Padgett as you say, and there is no proof that they knew about it.

MR. FISCHETTI: May we have a brief voir dire of the witness then to determine whether or not he informed the Government?

MR. HIGGINS: Anybody else in the Government?

MR. FISCHETTI: Mr. Wohl is here representing the Government. It may have been to another assistant, another time, as a matter of fact, in another district. We

don't know that.

MR. KEEGAN: If Mr. Wohl would ask him during the recess we will accept that.

THE COURT: All right, Mr. Wohl can ask him, and don't forget to caution him against mentioning anyone else's conviction here.

MR. FISCHETTI: Thank you, Judge.

MR. WOHL: Your Honor, I wanted to make one thing just clear to the Court, and that is that if this witness is asked the question of whether he dislikes Mr. Feiffer, and whether he dislikes Mr. Rubinson, as he's already made somewhat clear, I think he would answer that, that he does. He feels a very strong dislike for the two of them. And it would seem to me that that would allow these defendants to accurately go into whatever bias they claim he has. But it's going to be, I would submit, somewhat prejudicial to the Government to allow them to cross examine him, claiming that this gun incident occurred, without--first of all.

THE COURT: No, he agreed that he was bound by the answer; that is, the witness would answer as you indicated no, and they can't go beyond that, they can't go into it after that.

* * *

* * *

Q What did you say?

A You said why am I sitting up here doing this to you.

Q I did not ask you that, Mr. Weitzman, I would like you to respond now. Why didn't you give me back this piece of paper you say that I left on your desk that is not my handwriting?

A Because prior to that time you, Mr. Stein and Mr. Feiffer perpetrated a very, very serious fraud on me. The end result was that my business went bankrupt due to your fault and Mr.Stein's and Mr. Feiffer's, I was divorced, no longer in the same geographic location and my children--

Q Because of me and my wife did you get a divorce?

A Because of you and Mr. Feiffer and Mr. Stein--

Q Was I a correspondent with your wife--

A That is harrassment.

THE COURT: You are bringing in something else now--

A I would like to finish the whole thing, as long as you asked me, right?

Q Go ahead.

A During the time you left that document on my

desk, I was in very, very serious trouble with the Securities and Exchange Commission, probably going to be with the Justice Department, I could have been charged with a very, very serious crime that was due to you and Stein and Feiffer.

I had to start collecting any bit of information, anything that had to do with you or Stein or Feiffer, that I found that might or might not be relevant to pursuing the point where I would be clear and the true blame and the true penalties would be placed on the other parties responsible for that crime that you perpetrated on me.

I am still feeling the results of that today, I have judgments against me for $150,000 that should be on you -- this is my opinion --

Q Your opinion?

A No, No, it is more than my opinion.

Q Well, state what it is.

A Okay. Since the time I picked up that document from your desk--

Q From my desk?

A From my desk--there was a hearing, a civil action by the Securities and Exchange Commission against several people before Judge Mansfield who found that what I just stated happens to be true--

* * *

* * *

Q You repeatedly have called Stein, Feiffer, Rubinson one, is that correct?

A A group acting together? Is this what you are really asking me?

Q No, I just want you to tell me what you called us constantly before this jury and before the Court.

THE COURT: What is the question?

MR. RUBINSON: I want to know if he associates a man five foot something with a man six foot with a man five foot seven, and we don't look alike; are we all one?

THE COURT: No, that is not a proper question of the witness. You have already put that, anyhow.

Q Did you testify in front of the SEC as far back as December 12, 1969, five and a hlaf years ago, who was numero uno in this deal, No. 1, what did you say?

MR. WOHL: Objection. That is calling for a conclusion.

THE COURT: Yes.

Q Did you testify before the SEC?

THE COURT: Mr. Rubinson, you can use his

testimony before the SEC to show thathe made a statement there whichis inconsistent with something he has testified to here on his direct examination.

Do you understand?

You have to give him a specific question and a specific answer whichis contrary to something he has testified to here when Mr. Wohl was examining him or since you have been examing him.

MR.RUBINSON: Your Honor, I would like to say at this point that Mr. Wohl did not want to get into this area because he knows this witness.

I would like to read from the record here before the SEC and askhim some questions of what he testified, who Mr. Stein was, who Mr. Rubinson was, and who Mr.Feiffer was.

THE COURT: Well, put a question then.

MR. RUBINSON: I asked him did he know who the No. 1 man was between Stein, Feiffer and Rubinson.

MR. WOHL: I object to that on the grounds that it is just asking for the witness' conclusion.

THE COURT: You mean he testified before the SEC about No. 1?

Q "Q Couldyou name between Stein, Rubinson and Feiffer which one was the boss, so to speak?

"A Stein unquestionably, because it was my impression that Stein was the one that had the power to brokers and the different houses for transactions."

Did you testify to this in 1969 when everything was fresh in your mind?

MR. WOHL: I object to this on the ground, first of all, it is just a conclusion of this witness; secondly, it is an irrelevant conclusion, "who was No. 1, No. 2 and No. 3, and, finally, it is not inconsistent with anything that he said in this trial.

THE COURT: Yes.

Objection sustained.

MR. ROBSON: Your Honor, may I be heard?

THE COURT: Yes.

MR. ROBSON: Since that affects me, too.

No. 1, there is nothing wrong with a witness drawing a conclusion about facts which are everyday experiences --

THE COURT: The question is whether it is inconsistent with anything he said here today.

What is inconsistent?

MR. ROBSON: This witness testified here yesterday that Stein, Rubinson and Feiffer always acted as a group and one would start a sentence, the other would

finish, the three of them were indistinguishable one from the other and it was impossible for him to determine who said what because all three of them spoke all the time and appeared to be equals.

THE COURT: That is talking about recalling a conversation. He said he couldn't attribute specific words to any one. That is a different subject matter.

MR. ROBSON: He said they were always together, they always spoke for each other and it is critical in this case to establish that Stein was No.1, that everybody else was just a follower, that Stein called the shots, and that is what these questions are designed to get at, and Mr. Stein is not on trial for a very good reason, and I think it is important for us to bring that out.

MR. WOHL: We have already announced the reason--

THE COURT: You can ask him now who was No. 1, since he has not previously testified to that.

Ask him now who was No. 1 and you can ask him about his SEC testimony.

Q In 1969, when you testified before the SEC --

THE COURT: No, ask him now and then if he says something inconsistent with what he said at the SEC, you can ask him about that.

MR. RUBINSON: I don't want to ask him about that now, your Honor, because I know what he is going to say now.

If he had a gun, he would shoot me now. He has harassed me for five years and put me in jail twice and now he is going after me the third time, and I can't ask this man what he would say now, only what he said at the time when everything was fresh.

THE COURT: We are trying very hard to have an orderly trial here and since you are not a lawyer the Court is trying to direct you along the proper lines of cross-examination.

Now the way to prove that he testified one way before the SEC and inconsistently here is to ask him first who was No. 1 and if he testifies inconsistently, then you can show it.

If he testifies consistently, that is the end of it. We don't need those speeches from you. Just try to listen and follow the Court's direction.

Q Who was No. 1 in 1969?

A Will y9ou clarify the question? Do you mean regarding brains, activities, strength or appearance?

Q Regarding our general association, between you, Stein, myself and Feiffer.

MR. WOHL: I object to that, your Honor.

I think it should be limited to Stern-Haskell. That's what the trial is supposed to be about.

MR. RUBINSON: Yes, in the Stern-Haskell deal.

Q In the Stern-Haskell deal.

A I do believe that Mr. Stein was a very close first.

Q What does that mean?

A That means that he was on top and you were very close to him as second.

If you want me to make a comment on Mr. Feiffer--

THE COURT: No, he just asked you who was first.

A Okay, Mr. Stein.

MR. ROBSON: I would like to hear that comment about Mr. Stein.

THE COURT: When you get up, you can ask him about Mr. Feiffer or anything else. It is Mr. Rubinson's turn now to cross-examine.

MR. BUBINSON: Am I ready?

THE COURT: Yes, you may proceed.

Q In 1969 and in February of 1970 you said -- page 48:

I am going to the bottom because I want to leave out everything else except National Ventures, Diston or Stern-Haskell.

"Q Did they control National Ventures or Diston or Stern-Haskell or don't you know?

"A I can only give you an observation and it is not conclusive. I understand they were not involved of running the company but there is no question in my mind that the market for the stock was related to Sidney Stein.

"By the way, also for the record, I was arrested ten days ago, it was a Tuesday night here in New York, upon a complaint of Sidney Stein, and two detectives and a house security" --

THE COURT: Just a moment.

Are you just reading from that?

MR. RUBINSON: It is the same answer. I am reading the same answer. He rambles on. I am just reading what he said.

THE COURT: What is the question to the witness?

MR. RUBINSON: I asked him who was No. 1 and I

asked him if he testified to this that is listed in the SEC under oath --

THE COURT: That is a part of that answer?

MR. RUBINSON: Yes, Ma'am.

THE COURT: All right.

"A -- By the way, also for the record, I was arrested ten days ago, it was a Tuesday night here in New York upon the complaint of Sidney Stein and two detectives and the house security came to my hotel room at night and arrested me on a charge of harassment, which included threatening of Sidney Stein and possession of a gun. The detectives came into my room and asked me if I had a gun and I told them 'No.' "They told me that if I did have it, I'd be better off giving it up, you know, before they found it, and I said, 'I don't have it. You are welcome to search,' "which they did. They not only frisked me, they looked under my mattress and the cushions and the whole works and naturally they didn't find it.

"They took me to the police stateion in the detective's car.

"Mr. Anguilla: What precinct did you go to, the 18th?

"The Witness: It was around 68th Street." --

MR. WOHL: I will object to this, your Honor.

He is now just reading a lot of material.

I would submit his function ought to be to put questions to the witness.

THE COURT: Yes.

MR. RUBINSON: Okay.

THE COURT: He will put a question to you.

* * *

Q Did you believe in your own mind it was a legal transaction? In your own mind.

MR. WOHL: Objection.

Whether the witness believed it at that time to be legal or not is irrelevant.

THE COURT: Yes.

* * *

* * *

Q What did you testify on February 12, 1970 about that?

A I don't recall, for this reason: That as time went on from 1969 to 1975, which is five or six years, you learn that certain things were illegal and it is quite possible, and I don't know what you are referring to, that at one point I said I guess it wasn't right, specially after I saw the market being made, you know, and all that business. I can't tell you if I did or didn't.

Q Did you sell stock directly into the market?

A I certainly did.

Q How much did you sell?

A Of the Stern Haskell stock?

Q Yes?

A 1200 shares.

Q How much did you get for it in total?

A In the vicinity of $3500 to $4,000, of which was put back into the business to pay bills.

Q Did you get under your own name $3500?

A Yes, I did.

Q Plus a thousand dollars, a check from B'Noth Jerusalem, is that correct?

A That's correct.

Q That is $4500?

A Yes, that's correct.

Q You took that money, you said, and put it into Blank Leasing?

A Most of it.

Q Most of it?

A Yes.

Q But you got it. What you did with it was your business, is that correct?

A That's correct.

Q What did you pay for this stock that you got $4500 for?

A My entire life and reputation--

Q No, what did you pay at that time--

A And family--

Q Go ahead--

THE COURT: Just a moment. He is asking you what monetary value you gave for that stock.

THE WITNESS: Oh, I see. Nothing.

* * *

* * *

Q Do you recall Mr. Stein saying that it was okay for you to be a nominee, that Al Feiffer was his nominee all the time and it was perfectly all right?

A He and others said that to me, yes.

Q Did Mr. Stein give you a reason for wanting you or somebody to be his nominee?

A Yes.

Q What was that reason?

A That due to other involvements he and Mr. Rubinson do not like to use their names in certain business transactions and deals.

Q He assured you, however, did he not, that what he was asking you to do was perfectly legal?

A Yes.

Q And at that point you had no reason to doubt that what you were doing was perfectly legal, is that not correct?

A That's correct.

* * *

THE WITNESS: Yes.

MR. ANDREWS: I want to find out if he knew the going rate, your Honor.

Q The going rate was about 20%, isn't that correct?

A I don't recall, but if it was, I would have been willing to pay it.

Q You would have been willing to pay perhaps $60,000 if the underwriting brought in $300,000, isn't that correct?

A If that was the going rate, yes.

Q You went down and saw Mr. Levine about doing the underwriting?

A Yes.

Q You told him about your company?

A Yes.

Q And he even went down to Florida and looked at your facility, didn't he?

A I don't recall that.

Q You don't remember?

A No.

Q You don't remember him going down and looking at your showroom?

A No, I don't.

Q Do you remember you gave him a clock when he was

there as a present?

Do you remember?

A No, I don't, but I might have. I don't remember that at all.

Q You have no recollection of his coming down to look at your company with a view toward doing an underwriting, is that correct?

A No, I have no recollection.

Q But you remember your specific recollections of snatches of telephone conversations of which you heard one side, is that what you want us to believe?

A Sure. Yes.

Q Is that what you want us to believe?

A Believe what you think you should.

MR. ANDREWS: I withdraw the question.

Q This is the same underwriting that the SEC told you to withdraw because it contained material misrepresentations, isn't that correct, some of which Mr. Keegan brought out?

A (no response)

Q Yes or no?

MR. WOHL: I will object tothat, your Honor. The witness wouldn't have a way of knowing why the SEC told him to withdraw it, if the SEC did.

THE COURT: The question is whether they did tell him.

Q Yes, what reason the SEC gave him, some of which Mr.Keegan brought out.

We are talking about the same underwriting in which there were material misstatements of fact and misrepresentations and withholding of information, isn't that correct?

A If you would like me to answer the question so that all the facts are brought out --

THE COURT: No, no, the question is did the SEC tell you why it ought to be withdrawn?

Is that the question, Mr. Andrews?

MR. ANDREWS: That is correct, your Honor.

A If I recall, they told me --

Q I want a yes or no answer; did they tell you to withdraw the circular because of misrepresentations and misstatements?

A Yes.

Q Thank you.

That's the same offering that you had asked Mr.Levine to underwrite, isn't that correct?

A Yes.

Q And Mr. Levine refused to do it, didn't he?

A Yes.

Q How long after Mr. Levine refused to do your underwriting did the SEC make you withdraw the underwriting because of misrepresentations?

MR. WOHL: I will object.

I don't see any relevance of this transaction, particularly the time when the SEC told him to withdraw it.

THE COURT: Are you asking whether this was -- if the SEC asked him to withdraw it after Mr. Levine turned it down, is that the question?

MR. ANDREWS: I will withdraw the question.

Perhaps I can put it in perspective.

Q After Mr.Levine turned you down, now, without telling me who you went to, you got another underwriter, didn't you?

A Yes.

Q And you offered the securities for sale, didn't you?

A Yes.

Q And then the SEC forced you to withdraw the statement, isn't that correct, for misrepresentation?

A That was in, I believe, early December of 1969, so that would be close to a year after that.

Q What was in early December of 1969?

A First of all, my underwriter was suspended before I was suspended.

MR. ANDREWS: That is not reponsive.

I want a direct answer to my question.

THE COURT: Just a minute.

The question is whether this was after Mr.Levine had turned youdown that the SEC asked you to withdraw it?

THE WITNESS: Yes. It was after.

Q Mr. Levine turned you down, you subsequently retained another underwriter, and then the SEC forced you to withdraw, is that correct?

A Yes.

Q All that within a year after the time Mr. Levine turned you down?

A Yes.

Q How soon thereafter did you go bankrupt?

A Very quickly, within a month or five weeks or six weeks.

Q Did you ever pay any of the subscribers to your stock, did you ever pay them the money you took in on the very eve of bankruptcy?

A I?

Q Yes.

A I never took the money.

Q You are Blank Furniture. You were selling your stock?

A The underwriter collected the money, and had an escrow agent. That was the party responsible for the funds, and that's where the misrepresentation came in that you are speaking of.

Q Your company.

MR. WOHL: I will object to that.

THE COURT: Just a minute.

Let's not have any comments, Mr. Andrews.

MR. ANDREWS: I'm sorry,your Honor.

THE COURT: Put questions to the witness.

MR. ANDREWS: I'm sorry, your Honor.

Q Now, sir, you have testified on direct examination by Mr. Wohl that you were told that Mr. Levine was the owner of Lockwood, is that correct?

A Yes.

Q And you were told by several people that he was the owner of Lockwood, is that correct?

A Yes.

Q When was it those people toldyou he was the owner of Lockwood?

A Just prior to that meeting in Mr. Levine's office.

Q That would be in December of 1968 or January of 1969 relative to the underwriting of Blank Furniture, is that so?

A Yes, it was prior to the underwriting.

Q Just prior to that time you were told by a number of people that he was the owner of Lockwood, is that so?

A Yes.

Q And that's what you based your conclusion on that he was the owner of Lockwood, is that so?

A Not entirely.

Q But people did tell you that he was the owner?

A Yes.

Q Who were those people?

A Mr. Stein, Mr. Feiffer and Mr. Rubinson.

Q Do you recall the specific dates upon which they told you those facts?

A On the way down to Lockwood and -- whether it was told to me in the car or whether it was just before going down or whatever it might have been, but it was just prior to meeting Mr. Levine.

Q Did you make inquiry of them, when they told you he was the owner of Lockwood, what it was, if anything, that they based that statement on to you?

A Would you please repeat that question?

MR. ANDREWS: Maybe the reporter can read it back.

THE WITNESS: Yes, please.

(Record read.)

A No, since there were additional statements besides that particular statement it was not necessary for me to inquire further.

Q What were the additional statements, by the way?

A Well, "Let's go see Larry Levine, he is Lockwood He owes us a couple of favors. Maybe we can get him to do the Blank deal."

Q Let's stop at that. He owes us a couple --

MR. WOHL: Objection. I don't think we can stop at that in the middle of an answer.

MR. ANDREWS: I would like to take it individually.

THE COURT: Let the witness finish his answer, Mr. Andrews.

MR. ANDREWS: Yes, your Honor.

Q Go ahead, tell me the rest.

A I don't recall much more to that particular answer, except just that at that time.

Q All right. Then you based your assumption on alleged statements that these people told you Levine was the owner and that he owed them some favors and maybe he will do the Blank deal, is that right?

A That among other things.

Q I asked you, tell me the rest of it.

A Okay. Because I went down there many times with them, and they always seemed to consult with him. I saw this. They went into meetings and since I did not see them go into meetings with anybody else I assumed from everything put together that he was the owner.

* * *

MR. CHESTER: I had forgotten the Mobile Homes and the Diston Industries, your Honor.

No further questions.

THE COURT: Mr. Rubinson, did you have some questions?

MR. RUBINSON: Just a few.

CROSS-EXAMINATION

BY MR. RUBINSON:

Q Mr. Weitzman, you will excuse my cold.

You just testified that I burned up or threw away some of your records,my son and myself, is that right?

A Yes.

Q Were you there?

A I --

Q Did you physically --

A You didn't let me answer.

Q I withdraw the first question.

Did you see it with your own eyes?

A I saw the results of --

Q Did you see me burn it with your own eyes?

Answer yes or no.

A No.

Q No. Okay.

Do you know a man named Melvin Sachs?

A Yes, I do.

Q What is he?

A He is an attorney.

Q What is he doing for you?

A He is -- well, he was, right now he is not, but he was handling a civil action for me against you, Stein and Feiffer.

Q Where is that civil action taking place?

A In the federal court.

Q Where? What federal court?

A Well, the Southern District, and Judge Motley is the judge in the matter.

Q How much is that lawsuit for?

A The amount in contention now is the actual damages of $140,000 plus some interest, which would strictly counterbalance the judgments that are in existence against me,so that if I won, I would get no money for myself.

Q What happened tothe $350,000 punitive damage suit in this court?

MR. WOHL: I object to this.

MR. RUBINSON: It is very important to me, your Honor.

THE COURT: I didn't hear the question.

Please read the question.

* * *

Q While you were negotiating these business deals that you told us about, about the same time the Securities and Exchange Commission commenced an investigation, did they not?

A Yes, sir.

Q Do you recall, I am asking you to search your recollection now about conversations that may have occurred in 1969, that is when they commenced the investigation, is that correct?

A Yes, sir.

Q And that is some six years ago.

Do you recall at that time any conversations with Mr. Haskell regarding Mr. Haskell's attempts to locate the 350,000 shares of stock?

MS. HARRIS: Objection, your Honor.

I believe we may be facing the same thing we were late yesterday afternoon in terms of self-serving statements by the defendant.

MR. FISCHETTI: Judge, it is not self-serving statements by the defendant.

Mr. Wohl asked--

THE COURT: Let me hear the question, Mr. Reporter.

(Question read)

MS. HARRIS: I think it would be important to at least place this conversation in a time period because -- place it in a time period. It may well fall beyond certain events which would render it inadmissible.

Q At the time the Securities and Exchange Commission

commenced its investigation, you testified that was some time in 1969 or thereabouts.

MS. HARRIS: That would be the point, your Honor.

THE COURT: What time in 1969 did this commence, do you recall?

Q Do you know?

THE WITNESS: No, Ma'am.

MR. FISCHETTI: I am asking for his best recollection of the conversation, Judge, and I have fixed it as best I can with this witness.

THE COURT: You testified about events in 1969, did you not?

THE WITNESS: Yes, Ma'am.

MS. HARRIS: Your Honor, perhaps I can clarify the Government's point a bit.

The Government's point is the conversation took place after the investigation commenced.

MR. FISCHETTI: This conversation took place after the conversation, your Honor --

THE COURT: After the investigation commenced?

MS. HARRIS: After the investigation commenced. A conversation between him and Mr. Haskell at that point in time, if self-serving to Mr.Haskell, would not be admissible.

THE COURT: What do you say, Mr. Fischetti?

MR. FISCHETTI: He is a co-conspirator in this case and I am asking him if he recalls conversations with the defendant, who is also a conspirator in this case.

And that has been done on numerous times.

THE COURT: No, that is not the same issue.

The issue now is whether the statement made by a co-conspirator after a governmental investigation is commenced is not self-serving.

MR. FISCHETTI: Prior to the indictment, may it please the Court. This was prior to the indictment and prior to any criminal charges being placed.

MS.HARRIS: But after the matter was under investigation by the Government.

In fact, and we have transcripts here --

MR. FISCHETTI: I'm not going to use the transcripts, Judge. This is prior to any criminal action ever taking place. I am attempting to ask the witness if he recalls a conversation that he had with Mr. Haskell and if he doesn't recall that conversation, I am bound by his answer.

I'm not going to attempt to impeach him with any prior testimony. I am just going to ask him if he recalls that such a conversation took place, and I am bound by his answer.

THE COURT: Well, we are not on impeachment right now. I am worried about whether after an investigation is commenced, a defendant makes a statement --

MR. HIGGINS: Your Honor, may I be heard?

THE COURT: No.

MR. ANDREWS: Your Honor --

THE COURT: Just a moment, Mr. Andrews.

MR. HIGGINS: Is Mr. Wohl saying that as far as the Government's theory is concerned, according to the Government's proof the conspiracy ended, the alleged conspiracy ended as soon as the SEC commenced its investigation?

Is that what Mr. Wohl is saying?

MR. ANDREWS: And, further, your Honor, is Mr. Wohl saying that a criminal investigation began in 1969? And, further, your Honor, the indictment alleges that the conspiracy continued up until the date of filing of the indictment in 1974.

So the Government is trying to have it both ways here.

MR. WOHL: Your Honor, as your Honor knows, it frequently occurs that the Government alleges in the indictment that the -- or that the conspiracy continued up to and including the date of the filing of the indictment.

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That has occurred in this case.

Under the law, whether a conspiracy is a continuing conspiracy for some purposes, differs from whether it is a continuing conspiracy for other purposes; for example, there is the cover-up type of theory which applies in some situations and doesn't apply in other situations.

What we are basically saying, however, is that just because the indictment says the conspiracy ocntinued up to and including the date of the filing of the indictment, does not mean that defendants can go around making statements to otherpeople, whether they be co-conspirators or non co-conspirators, after the Government has started an investigation.

And the defendants in some cases are put on notice that the investigation could lead to criminal charges; they can't thereafter go out and make statements to other people, whether they be co-conspirators or not co-conspirators, and then have those other people come into court and testify as to what the defendant said after an investigation started, which clearly would lead to a criminal investigation.

THE COURT: Yes. The objection is sustained.

Proceed, Mr. Fischetti.

MR. FISCHETTI: I will, Judge. I will get off

this line at your Honor's direction.

But may I inquire if the Government is now prohibited from asking this witness or any other witness as to conversations that he may have had with any one of the defendants at this table after 1969 when they commenced their investigation?

MR. WOHL: Clearly that would not be proper, the Government would submit.

THE COURT: Yes. We are ruling--

MR. FISCHETTI: If he can elicit those conversations, Judge, why can't I?

THE COURT: We are only ruling on this now. We are not ruling on some objection that has not yet been made.

Proceed.

MR. FISCHETTI: My point is, Judge --

THE COURT: I am not going to rule that the Government can't ask a particular question until it is asked.

MR. FISCHETTI: I see.

BY MR. FISCHETTI:

Q Mr. Stern, do you know or did you ever hear of a man by the name of Milton Herman?

A Yes.

Q Who is he?

A He is a furrier.

Q Did he ever receive any Stern-Haskell stock, to your knowledge?

MS. HARRIS: Objection, your Honor.

If the witness has any way of knowing.

THE COURT: If you know that of your own knowledge.

A I heard a story that he had received--

MS. HARRIS: Objection, your Honor.

THE COURT: Objection sustained.

Q Who did you hear it from?

A I believe it was from Mr. Haskell.

Q What did Mr. Haskell tell you?

MS. HARRIS: In what period of time, your Honor?

THE COURT: What period of time are we talking about?

THE WITNESS: It was some time after April 1969.

MS. HARRIS: The Government's objection is based on the concern as to whether it was before or after the investigation. I think we are back to the problem which we had a few seconds ago.

MR. ANDREWS: Your Honor, may we know when the investigation began, because in certain pretrial motions the Government took the position that an investigation did not begin until 1972. It suited their purpose then to take

that position.

If they are now saying an investigation started in 1969, I would ask your Honor to reconsider pretrial motions.

MR. WOHL: The comment by Mr. Andrews is flatly untrue, as your Honor knows, as to when we said that the investigation started.

We got into various questions about when the grand jury was investigating and when the SEC was investigating, and I think Mr. Andrews knows that.

I think our point right here is, did the discussion concerning Milton Herman occur before or after the SEC investigation started, which is the investigation we have been talking about.

MR. ANDREWS: Perhaps we ought to settle this matter out of the hearing of the jury, your Honor.

THE COURT: Just a minute.

Do you recall when this discussion took place?

THE WITNESS: Only approximately, your Honor.

THE COURT: When is that?

THE WITNESS: Approximately after April of 1969.

* * *

* * *

THE COURT: That is an entirely different point from what we are discussing now. Mr. Andrews, did you want to be heard?

MR. ANDREWS: Yes, your Honor. Thank you.

My first application, of course. would be that the indictment be amended to reflect the true state of affairs. The Government indicates in its language this conspiracy continued up to and including the date of the filing of the indictment. If Mr. Wohl wants to tell us that language has no meaning, then what other language of the indictment has no meaning, I would ask?

It should be amended and the Government ought to put down a date certain this conspiracy ended for the purposes of conversations between co-conspirators.

It puts us at a tremendous disadvantage.

* * *

THE COURT: Any redirect?

MS. HARRIS: Your Honor, I have some redirect.

I would like some time with the witness prior to that redirect.

MR. FISCHETTI: I would have no objection to that, nor do I think any other defendant would have.

MR. KEEGAN: I would like to have a few questions, if we are going to recess for a period.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. KEEGAN:

Q Mr. Stern, I belive you said on one occasion, on only one, you met a public relations man?

A Yes.

Q And his name?

A Victor Benante.

Q Mr. Benante has since passed away, has he not?

A Yes.

Q Do you know whether Sidney Stein sent Mr. Benante

md:mg 4 560a Stern-cross

to you?

A No.

MR.KEEGAN: No further questions.

MR. ANDREWS: Just one, your Honor.

CROSS - EXAMINATION

BY MR. ANDREWS:

Q Is it Hector Benante or Victor?

A Hector, my error.

Q When you say you don't know whether Mr. Stein sent him, are you saying it could be that Mr. Stein sent him, you just have no knowledge?

A I have no knowledge.

MR. ANDREWS: Thank you.

THE COURT: All right.

If there is nothing further, we will recess for ten minutes.

(Recess: 2:45 p.m.)

(The jury left the courtroom.)

* * *

Q And who was present?

A I don't believe anybody was present except Mr. Rubinson and myself.

Q Do you recall where the conversation occurred?

A At his office on Miami Avenue in Florida.

Q Could you tell us what he said and what you said on this subject of setting up a new transfer agency?

A He was apparently disturbed by the fact that--

MR. FISCHETTI: I am going to object to that, your Honor,move it be stricken.

THE COURT: Yes.

Don't give us any conclusions. Just tell us what he said and what yousaid and not what appeared to be.

A He told me he was disturbed by the fact that he had heard that some of the stockholders had not been-- had been complaining to him in correspondence that the transfers and the-- the transfers that they made were not proper.

He also was disturbed that he was not able to get information as to the new stockholders and the stockholders who have sold part or all of their interest in the company, which would assist Mr. Stein in helping to properly promote

the sale of the stock by not-- at this point not being able to have up-to-minute records of the transactions of buys and sells and transfers in and out in the company's stock, which was Allan Electronic Industries, Inc.

Q Who was the Mr. Stein that you referred to there?

A Mr. Sidney Stein.

Q All right. That's all.

The same person you referred to earlier?

A That's right.

MR. CHESTER: Judge, I object. He is talking about he and Mr. Rubinson had a conversation as to a stock transfer agency. No one was there except Rubinson and Mr. Hochen. Suddenly he is bringing in Sidney Stein again.

HOw do you get Stein in when he says there were only two of them there?

MR.WOHL: I think if Mr. Chester had listened more carefully--

MR. CHESTER: I am listening carefully to every word you say.

MR. WOHL: If I am not mistaken, the witness testified that Mr. Rubinson wanted a new stock transfer agency because he wanted certain information on up-to-the-minute transfers that Mr. Stein needed to promote the stock.

MR. CHESTER: I didn't hear Stein's name there.

* * *

Q Did he say anything about what they were going to do with Stern-Haskell?

A Yes. They were going to buy a certain number of shares of Stern-Haskell stock and in an appropriate time they would distribute it, that stock, all of that stock, to the stockholders of National Ventures as a dividend.

Q Did Mr. Chester ever tell you anything on the subject of who, if anyone else, was going to be part of this plan to deal with National Ventures in the way you have described?

A He did tell me that he needs associates, brokers and individuals who have access to brokers, who could properly distribute the stock of National Ventures once the acquisition is in effect.

Q When was this he told you that?

A This was at the beginning of February.

Q What year?

A 1969.

Q And where did he tell you this?

A At his office.

Q And who was present?

A Just myself.

Q Could you give us the entire conversation that was on this subject of these brokers, giving us what you said and what Mr. Chester said?

A He said he had made an arrangement with Norman Rubinson and Sidney Stein to help him sell and distribute the stock of National Ventures as widely as possible and any other companies that they could spin off from National Ventures in the future and he felt that he was doing it because he was not a market expert, had no facilities to creating marketings, to selling it and distributing it, so that the stockholders will remain content and not just buy into the company and then quickly get out of it, and that was the reason why he relied upon both Norman Rubinson and Sidney Stein to help make what is called a market or a distribution of this stock and any other stock that followed.

Q Did Mr. Chester say anything about what Mr. Rubinson and Mr. Stein -- he expected that they would do?

A I did not quite -- would you repeat that, please? I did not quite get that.

* * *

A Yes. The next meeting-- my next meeting with the Stern-Haskell group was on Saturday, February 8.

Q 1969?

A 1969.

Q And that was a Saturday?

A That was a Saturday.

Q Now, how long was that meeting?

A I have marked that down for two hours. But I also notice in my diary that I had another meeting at the same time practically the same place with some other group that was also going to be a possible acquisition or a merger, and that was also two hours.

It may be my time might have been -- I believe at the end of the day when I write this up I write I spent two hours with Stern-Haskell and tow hours for this other situation, or it may be that I was interrupted and I might have stopped this Stern-Haskell meeting and gone out next door to see Mr. Weitzman who was involved principally in this other deal.

Mr. Weitzman is --

Q Don't tell us about this other deal at this point, unless you are asked.

Who attended this meeting on February 8, 1969 concerning Stern-Haskell?

A Norman Rubinson, Sidney Stein, William Chester, Al Feiffer, a chap by the name of Silber or Silbers, Haskell, and Weitzman, and myself.

Q The Haskell was the Haskell from Stern-Haskell?

A Yes.

Q And the Weitzman was the Weitzman who was from the Blank Equipment Company?

A Yes, sir.

Q Now, tellus, please, whosaid what at that meeting on the subject of Stern-Haskell?

A Most of the conversation was done by Sidney Stein, who stated there-- he says "We now have a deal, we have completed it. Now, all we have to do is to set up several things, and when I get through with setting up, if there is questions, I will go over that with each one of you."

He says, "We want the company to issue some investment stock to certain people," and he mentioned certain names. There was no mention of the number of shares. He said, "These are the people to get this, and we will decide what each one shall get."

There was a name of McKay, there was a name of Weitzman, there was a name of Silbers, there was a name of Feiffer, and then Sidney Stein turned around to Norman Rubinson and he says, "What about Larry?"

Norman Rubinson says "Okay."

Sidney says "Larry is on the list, too."

Q Did that refer to you?

A Yes. He meant me.

Q Was anything stated about the relationship of these named people to any other people?

A Well, there was a question raised, I don't know by who-- I don't remember who raised that question but Sidney said, "Some of these people, like Feiffer and Weitzman and McKay, will be our nominees."

And then they got into a general discussion. Mr. Haskell, I believe, raised some questions as to what's going to happen now we have got it done.

Sidney says, "Don't worry about it."

I think it was Sidney who said that or Norman. I am almost certain it was Sidney. I am not vry certain. He said, "Don't worry, in a very short time that stock will be selling for $5 a share, period and it will stay there, and everybody here is going to make profit on it."

Q Was there any further discussion at that meeting on the subject of the transaction that you described?

A There was another question I think by Haskell. He says, "Are you sure that you will be able to make that distribution?"

Sidney says, "I've always been successful at it, and don't you worry about it. Anything else you want to know about this, I don't think we ought to discuss it with this whole group. You see me later and we will discuss that in greater detail, how and what, and who, which brokers, on who is going to run the market, and so on and so forth."

Q Did there come a time when you had an additional discussion with someone concerning your being designated, when he said "What about Larry?" at the February 8th meeting?

A About a week later I was requested to send a check for $375 to pay for 37,500 shares of National Ventures at a penny a share.

Q Who made that request to you?

A That request came to me from Chester. He says, "You were designated to purchase, to buy investment stock for 47,500 shares."

Q Did you have this discussion in person or was it over the telephone, if you recall?

A This was on the phone.

* * *

Q Did you subsequently have a conversation with someone about your failure to receiven Stern-Haskell stock?

A Yes, I had a conversation with Norman Rubinson.

Q When did that conversation occur?

A Almost immediately after I received that letter dated April, whatever the date is on top of it.

Q That is Exhibit 91, dated April 11?

A That's right.

Q Did you receive the exhibit at or about April 11?

A Yes, maybe -- it might be a day or two later.

Q Where did your conversation with Mr. Rubinson occur?

A At Mr. Rubinson's office in Blank, Incorporated.

Q Who was present at this conversation?

A Just Rubinson and myself.

Q Would you tell us, to the best of your recollection, what Mr. Rubinson said and what you said during that conversation?

A I asked him why I didn't get the stock that was supposed to be delivered to me with that letter.

He told me that they couldn't give me that stock and he wanted me to relinquish all rights and title to the

shares that's coming to me, that should have been mailed to me, because, he says, they needed it.

When he said, "they" he meant Sidney --

MR. ROBSON: If your Honor please, I object to what he meant.

Q Did he say who he meant?

THE COURT: Yes, did he tell you who he meant?

THE WITNESS: Yes, he said that Feiffer, Al Feiffer, and Sidney Stein needed that stock to take care of some of the brokers in order to make it possible to consummate the distribution of the stock. They needed all the stock they could get in order to take care of some of the brokers involved in this situation.

Q Stock of what company?

A As far as the Stern-Haskell stock is concerned.

Q Did you say anything in response to that?

A I did. I objected to it very strenuously.

I said, "I wasn't a nominee of yours, I wasn't supposed to be a nominee. I got the stock, as I understood it, I purchased the stock for the work and services that I rendered you and your associates over the considerable period of time in the past year or so, and this is the way you decided you were going to pay me, and there was no intention on my part to be a nominee for anybody."

It never was my intention, I never live that way. I've got a professional dignity about things of that sort, and this is not my problem.

He says, "I must have that stock."

I said, "Well, if you insist -- if you insist that you must have it, because of my association with you for such a period of time, you can have some of it back, but some of the stock I want."

And he says, "I will give you instead of the total amount I will give you the total amount of shares" that I was supposed to get was supposed to have been one half of 37,500, or 18,750.

He says, "I am going to give you less 2,000 shares, and also I will arrange that you will sell the other 16,000 plus shares for one half of the cost that you invested in this investment stock, which is $187.50."

Q I show you Exhibit 34 in evidence, which is a stock certificate in your name marked "void and endorsed" in Stern-Haskell for 18,775 shares.

My question to you is did you ever receive that stock certificate?

A No, sir.

Q What was the next thing that happened in connection with the Stern-Haskell transaction after your conver-

sation with Mr. Rubinson in which he said you could keep 2,000 shares and he was arranging for you to sell these others?

A Very shortly thereafter I received a check for $187.50 from Mr. Rubinson, not made out by Mr. Rubinson, made by Al Feiffer, and I also received 2,000 shares in what is known as Street Certificate, 100 shares each, endorsed by a broker, Lockwood and Company, and his signatures were endorsed and guaranteed by his bank to make that what we call a street negotiable certificate.

Q Where did you receive this check and these stock certificates?

A The stock certificates were given to me at Blank, Incorporated, by Norman Rubinson.

The check, I think, also came to me from Norman Rubinson, Feiffer's check, at the same time, or it might have been mailed to me.

I can't recollect that.

Q Do you know the certificate numbers of the Stern-Haskell stock you received?

A No, sir, I don't remember that.

Q Did you write them down?

A Yes, sir, I think I did in one of my files which I think must be in your possession.

* * *

Q I show you Government's Exhibit 99 for identification and I ask you if that refreshes your recollection as to the approximate date when you had your conversation with Mr. Rubinson?

A Must have been -- the Exhibit 99 shows that there was a check given to me.

Q Don't tell us about the exhibit yet. Just tell us if it refreshes your recollection as to when you talked to Mr. Rubinson about the Diston stock.

A Sometime after June 17, 1969, almost immediately thereafter.

Q Where did that conversation occur?

A This I believe was a phone conversation with Mr. Rubinson.

Q In that conversation what did he say to you and what did you say to him concerning the Diston Industries?

A Rubinson suggested that I donate all my Diston stock to a religious organization called B'Noth Jerusalem, a very orthodox group of people, very religious Jewish people, and I told him very, very frankly I was not interested in making a contribution to this organization, I don't know them, and I have other charities which I think in my opinion are more worthy.

Then he says, "Well, I would like you to sell that

stock that you have, the stock of the Diston Industries, to them," and I was offered $100, and only at Rubinson's request as an old and valued client, did I agree to take this.

It was the intent, as I understood it at the time --

Q Could you just tell us what you said and what Mr. Rubinson said in this conversation, please.

A Mr. Rubinson said -- he says "They need some stock," "they" meaning himself, Feiffer and Sidney Stein, "They need some stock to give to brokers in order to make it possible and profitable for the brokers to distribute the stock, and therefore they want to acquire all the stock that's available to do this," and he says, "Please give me the stock that you have, all of it, and I will get you a check for $1,000."

MR. ROBSON: I am sorry. I missed that, the last sentence.

THE COURT: Read the last sentence, Mr. Reporter.

(Answer read.)

A On July 9 I received a check for $1,000. I returned all the stock to him, to Mr. Rubinson, for transfer to me in street stock for whatever I did not sell. I don't remember the number of shares at the moment. That, of course,

I would have to look at my personal record in order to remember that.

That's six years ago.

Q Could you look at Government's Exhibit 100 for identification and see if that refreshes your recollection as to how many of the Diston Industries shares you gave up.

A According to this Exhibit 100, on July 18, 1969, I sold for $1,000 to B'Noth Jerusalem, 16,700 shares of Diston Industries stock free and clear and I hereby request that my certificate number A492 in the amount of 18,775 shares is to be broken down in 100 share certificates in Lockwood & Company Street name and 2,075 shares be returned to me.

Q Do you recognize Government's Exhibit 100 for identification?

A I recognize that. This is a letter from me on plaint stationery, which I never wrote, somebody else wrote it, and it was given to me for signature, which I did sign. This is my office copy.

Q Who gave you that letter for signature?

A Norman Rubinson.

Q Where?

A At Blank, Inc. office.

Q When?

A On or about the date of that letter.

THE COURT: Excuse me, Mr. Wohl. At this time we are going to take a 15-minute recess.

The jury is excused.

(Recess.)

(In open court, jury present.)

MR. WOHL: May I proceed, your Honor?

THE COURT: Yes.

BY MR. WOHL:

Q Now, Mr. Hochen, did you sign the original of Government's Exhibit 100 -- that is, the letter referring to a sale of B'Noth Jerusalem stock -- excuse me, of Diston Industries stock to B'Noth Jerusalem?

A I did.

Q What did you do with the signed copy after you signed it?

A I gave it to Mr. Norman Rubinson, and I received the check as agreed for a thousand dollars, and I also received the excess certificates.

I endorsed the certificate, and I received 2,075 shares returned to me.

Q This 2,075 shares were the shares in what name?

A All in Street certificates of Lockwood & Company. That is the way I requested it in this letter.

* * *

* * *

CROSS EXAMINATION

BY MR. RUBINSON:

Q Good afternoon, Mr. Hochen.

A Good afternoon, Mr. Rubinson.

Q On direct examination, Mr. Hochen, you said to Mr. Wohl and to the Court, that you know me since 1964. Is that correct?

MR. CHESTER: Could Mr. Rubinson keep his voice up. I can't hear him.

THE COURT: Yes.

Would you close that window. There is apparently some fan going outside.

Q I said you stated to Mr. Wohl on direct examination and to the Court and to the jury that you know me since 1964, is that correct?

A Yes, sir.

Q Who introduced you to me?

A Sidney Stein.

Q Who is that?

A Sidney Stein and Lido Davis.

Q Is that the Sidney Stein we are talking about who was a defendant in this case and pleaded guilty?

A I don't know what happened before this, but I suppose you mean this same Sidney Stein.

Q That's right, the mysterious Sidney Stein, is that correct?

A Not mysterious.

Q Is he here in this courtroom?

A No. I don't see him.

Q Do you know why he is not here in this courtroom?

A No, sir.

Q You also testified that you and I had a tremendous amount of business relations, is that correct?

A That's true.

Q We go back as far as 1964, is that correct?

A I think that's just about right.

Q What were we doing together in 1964, would you tell the Court?

A You engaged me as the accountant for your company to help the company keep proper records and to help you get some financial assistance through the banks and so forth to prepare your tax returns which I have done for a number of years, even after your company became a public company, to take care of some old matters after your company went in bankruptcy, and things of that sort.

Q In 1964, did there come a time when you heard of a bank called the Five Points National Bank?

A Yes.

Q Were you a stockholder in that bank?

A Yes, sir.

Q Was I a stockholder in that bank?

A Yes, sir.

Q What was your position in that bank?

MR. WOHL: I will object at this point, your Honor, and ask that we approach the side bar.

THE COURT: Yes.

(At the side bar.)

MR. WOHL: Your Honor, as I understand it, this

Five Points Bank transaction is not relevant to this case so far as I can see it.

I don't know whether this is what Mr. Rubinson is getting at, but there was a time as I understand it, when Mr. Hochen was indicted in the Five Points Bank transaction, but he was never convicted, and the whole transaction did not result in a conviction on his part and, in addition, it is something that happened a number of years ago, the case is entirely disposed of, and so far as I can see, nothing in the Five Points Bank transaction would be relevant to this particular case.

THE COURT: Is that so, Mr. Rubinson?

MR. RUBINSON: Well, what he --

THE COURT: Was he convicted?

MR. RUBINSON: What he says is true, your Honor.

THE COURT: Just a moment.

Answer the question.

MR. RUBINSON: I don't know whether he was convicted, your Honor. I was not in the bank at that time, but this is not what I am getting at.

But I want the right to reserve my questions if I wish to ask him later these questions. Right now I am not getting at that at all. I am just trying to establish our relationship through the years. I am not going to ask

him if he was indicted or convicted at this time. I may later on in my cross examination, but I want to reserve that right.

THE COURT: Just a moment, Mr. Rubinson. You can't ask him about that unless he was convicted of a crime, do you understand me?

MR. RUBINSON: I don't know if he was. I want to find out from him.

THE COURT: You can't ask him about it. You have to know it before you ask him. Do you understand it?

MR. RUBINSON: I have no intention of asking him, your Honor.

THE COURT: Just be careful now. You know before things were brought out as a result of your cross examination that should not have been brought out.

MR. RUBINSON: Your Honor, I have to take exception to that.

THE COURT: Just be careful.

MR. RUBINSON: Because in that testimony the way I read it back when I cross examined Mr. Weitzman, I just asked him why he didn't chase me what a yellow piece of paper. He blurted it out. I did not bring that out, your Honor, and I wish you would read that testimony back and see that what I say is correct. So I am very careful.

It is only these witnesses have been primed to spit out in my face what they want everybody to hear, but I am not ready to do this to this gentleman here. This was not my intention, and I am surprised you even brought that up.

MR. WOHL: Could we have some kind of offer of proof from Mr. Rubinson?

MR. RUBINSON: I said it is not my contention. Why do I have to prove it.

MR. WOHL: I am just asking what the Five Points Bank transaction is relevant for.

MR. RUBINSON: I want to show that he was on the Loan Committee, I was the Chairman of the Loan Committee, we did not make any bad loans while I was there, and I am not going into further did you make any bad loans while you were there.

I am not talking about that.

THE COURT: Don't ask him about any loans made.

MR. RUBINSON: I want to show an association. Can I show we were both directors in the bank. He didn't answer. I started to ask about myself and he stopped me.

THE COURT: Do you have the last question and answer before we came up here, Mr. Reporter?

(Record read.)

THE COURT: All right, you have established that you had a relationship with respect to that bank in 1964. He was a stockholder and you were.

Now, what else do you want to bring out?

MR. RUBINSON: I want to bring out this very important point.

If I decide later that there is a motive to his testifying today which includes his indictment at that time, which he turned evidence at that time, also in later co-conspirator cases he was involved in bankruptcys and different things, which he turned Government witness, which he is here for this purpose today, because he did have conflicting testimony as to his SEC testimony as to my involvement. I may or may not bring that up, but I want the privilege of bringing it up to protect myself just to show his motive and intent.

THE COURT: Just a moment.

Are you talking about some other indictment now?

MR. RUBINSON: I am talking about other indictments or involvements like this particular case here where he is an unindicted co-conspirator where he was told he was a target before they unindicted him.

He was told he was a target. He has conflicting testimony as to his 1970 SEC testimony.

Now, I am not saying that I will use this. I am not looking -- I may use him for my witness. I may look to impeach him, I may make him my witness.

I don't know what he is going to say at this point because whatever he said is so twisted I am going to be very nice and try and bring out whatever is the truth, and I am going to try and refresh his memory.

THE COURT: Mr. Rubinson, I am asking you whether in addition to this bank indictment that you have talked about you know that he was indicted in other cases, is that what you are saying?

MR. RUBINSON: He is an unindicted conspirator here.

THE COURT: In this case.

MR. RUBINSON: Yes, and he also is in five companies he was the accountant they went wrong into bankruptcy. I have them here.

THE COURT: Mr. Rubinson, if a company goes in bankruptcy that is not a crime. You can't ask him about that.

MR. RUBINSON: Yes, but I wish you would tell the jury that. The jury doesn't think that way. The jury heard Allan went into bankruptcy. He didn't have to spit that one out. I didn't ask him that question. He said "and Allan went into bankruptcy."

I asked him about a bank in 1964. He rambled on to 1970 and made a speech. I don't know what he is going to say.

I want a right to reserve my cross-examination of this man as to his intent and motive to testify here if I so want to use it. I want to reserve that right.

THE COURT: Now just a moment.

With respect to his being an unindicted co-conspirator in this case, you can bring that out, and you can ask him whether he has been promised anything in exchange for his testimony. You can ask him whether the Government has agreed not to indict him for other matters.

Do you understand that? You can ask him that.

MR. RUBINSON: I understand what you are saying, but I don't have the legal experience to know how to bring it out.

THE COURT: That's why I am telling you.

MR. RUBINSON: Yes, but I can't seem to get it in my head. I can't seem to get that in my head why the man can testify to where I am going to bring out false -- and I know he has a motive of testifying here because it said in the grand jury testimony he was a target and all the notes Mr. Wohl made, he has been a target, he has been a target of other investigations and I want to reserve that right as to his motive and intent.

I have no intention of asking him now, I tell you thar right now, your Honor, but maybe later, depending on what he says.

THE COURT: Mr. Rubinson, just try to listen. When you go back up there you ask him whether he is not an unindicted conspirator in this case.

MR. RUBINSON: I don't want to ask him that now. I've got time for that.

THE COURT: Mr. Rubinson, there comes a time when you have to follow the instructions of the Court. If you want to help yourself, you claim you are not a lawyer, that you don't know what you are doing.

MR. RUBINSON: I don't.

THE COURT: Yet when I give you directions you don't want to follow it.

MR. RUBINSON: Not that I don't want to follow it, I just can't absorb it.

THE COURT: You are not listening.

MR. RUBINSON: I am listening to every word but I don't know how to bring it out and I can't absorb it.

THE COURT: I am telling you now how to bring it out. You just listen.

You ask him if he is not an unindicted co-conspirator.

MR. RUBINSON: Do I have to ask him right now? We are not up to that point. I don't want to get him mad at me. He is liable to say anything. We are only up to friends and relations.

THE COURT: Let me finish.

When you ask him that question, you then ask him whether the Government has promised him anything in exchange for his testifying here today.

MR. RUBINSON: Yes, Ma'am.

THE COURT: You can ask him whether the Government knows about anyother illegal activity in which he may have been involved and whether they have promised him immunity from prosecution with respect to that.

Do you understand?

MR. RUBINSON: Yes.

I don't have to ask him that now, do I?

THE COURT: What do you want to ask him now?

MR. RUBINSON: I just want to ask him-- he said that he was in the bank. Was I also in the bank? That's all I want to ask him.

THE COURT: You already asked him that.

MR. RUBINSON: No.

THE COURT: You asked him whether he owned stock and whether you owned stock.

MR. RUBINSON: I want to ask him whether we came there on a weekly basis.

Can I ask him that?

THE COURT: That's getting into more of the same.

MR. RUBINSON: I want to show the jury he is my friend, not my enemy.

THE COURT: You said you want to establish you knew him from the bank situation. You have established that. You can't ask him whether he has ever been indicted in that picture.

MR. RUBINSON: I don't want to ask him that now, and you told me not to ask him later.

THE COURT: He has not been convicted of a crime.

MR. RUBINSON: That I don't know.

THE COURT: I am telling you, you have to have

proof he was before you can ask him, and you don't have it.

MR. RUBINSON: I don't have it now.

THE COURT: Don't ask him that.

MR. RUBINSON: If you don't want me to, I won't ask him.

MR. ROBSON: The Government is required to provide rap sheets to us.

THE COURT: He just told us --

MR. ROBSON: He doesn't know if he was convicted.

MR. WOHL: My understanding is he was not convicted.

MR. ROBSON: I want the rap sheet if he has been indicted.

THE COURT: Do you have that?

MR. WOHL: I suppose I have it in my office. The fact is the man has no convictions. The rap sheet is just going to show that. It might show some arrests and I will provide it to the defendants tomorrow.

MR. ROBSON: I want his rap sheet.

MR. ANDREWS: If the Government wants to warrant he has no convictions that is acceptable.

MR. WOHL: I can make that representation.

MR. ANDREWS: That is acceptable to me.

THE COURT: I am sure it is. If it turns out he

has been, you will have something to appeal from.

MR. ANDREWS: May I be heard?

THE COURT: Not on this.

Do you have some other topic?

MR. ANDREWS: A similar topic. I have been quiet all day, Judge.

MR. CHESTER: He has been good today, Judge.

MR. ANDREWS: My information is that this fellow has previously been an unindicted co-conspirator and I would like to know if he has a pattern of cooperating with the Government to get out of his messes.

THE COURT: I just told him, he can ask him that. The record will show I told him three times.

You try to listen.

MR. ANDREWS: I have been listening hard and I didn't get that.

Thank you, Judge.

(In open court)

MR. RUBINSON: Mr. Reporter, would you read the last question and answer back, please, because I don't remember it.

(Pending rquestion read)

A I was a director of the Five Points National Bank.

Q Well now, we will skip a few years and go to about

1967.

You testified that between 1964 and thereafter you did accounting work for me?

A True.

Q Were you also my financial adviser in certain instances?

A I tried to be.

Q Did you say "tried to be?"

Can you answer were you or weren't you, Mr.Hochen?

A I was an adviser.

MR. WOHL: I will object.

Q Thank you.

MR. WOHL: Withdrawn.

Q Did there come a time when you heard of a company called Aqua Filter Corporation?

A Yes, sir.

Q What did that company do, Mr. Hochen?

A It manufactured --

MR. WOHL: I will object to this, your Honor. The Government would submit we are not trying an Aqua Filter case or anything of that sort.

THE COURT: Yes. Sustained. The objection is sustained.

Q As one of the items that I am permitted to talk

about is Allan Electronics, so I'll go into that.

How did Allan Electronics become public, Mr.Hochen?

MR. WOHL: I will object tothat as well.

THE COURT: Sustained.

MR. RUBINSON: They called it a similar act.

THE COURT: Not Allan Electronics. Diston Industries and Mobile Homes.

MR. RUBINSON: No, as a similar act in their moving papers. They called it a similar act as far as Calculator is concerned.

MR. WOHL: Your Honor, in the bill of particulars the Government put the defendants on notice that the Government would expect to prove some of the defendants' activities as to a number of corporations.

We listed Diston Industries and Mobile Home Ventures, and also several other companies, including Allan Electronics.

At the trial, however, we have not attempted to put in proof related to Allan Electronics and these other companies on the theory that they are similar acts, and the Government's examination of this witness and the other witnesses has not described those transactions in that sort of detail.

Consequently, the Government takes the position

that those companies are not relevant to this case.

THE COURT: Yes, the objection is sustained.

MR. RUBINSON: Your Honor, I would like to be heard on that.

We have been listening to this case for three weeks and all we have heard was Allan Electronics, Calculator Computer, General Auto Parts, and now these are listed as similar acts.

If the U. S. Attorney had no intention of using it as similar acts, then he should not have put it in his moving papers and should stipulate to strike it now, if he is not going to use it any more, not just leave it in there and just talk about it.

THE COURT: That is something the Government gave to the lawyers only.

MR. RUBINSON: I am not saying they gave it to the jury, but this jury is led to believe that there were similar acts, and I am going to prove that Calculator, Allan Electronics, and David Auld were not similar acts.

There may be one similar act,General Auto Parts, which I intend to get from this witness as to the legality in his mind, being a professional man since 1929, that he knew it was good, he investigated it with me, he and Mr. Chester, who is my house counsel, went through this whole

thing--

THE COURT: Mr. Rubinson--

MR. RUBINSON: Yes, Ma'am?

THE COURT: You are not a lawyer.

MR. RUBINSON: That is the problem.

THE COURT: So I advise you you only have to meet what the Government proves. You don't have to go into anything the Government has not attempted to prove, and that is what you are trying to do here, bring out matters relating to other companies which the Government has not offered to prove any illegality with respect to, and so you can't go into that because the Government is not offering to prove any illegal activity with respect to those matters, so you may not go into it.

Now, do you have an objection, Mr. Chester?

MR. CHESTER: Yes, Judge.

I want to make this comment.

Mr. Wohl, when he was using his-- Mr. Weitzman, Mr. Weitzman admitted under oath from the stand that he had sold like $60,000 worth of Calculator Computer Leasing Corporation stock which was a spin-off, which was in his mind legal.

Now, Wohl opened it up, so Wohl shoud let us tell what our experience has been in spin-off corporations

instead of just picking an isolated one, Stern-Haskell, and shutting us up about everything else.

The jury should have in their mind the entire picture. He opened the door himself by asking Weitzman how much stock he sold in a spin-off company.

MR. RUBINSON: That's correct.

MR. CHESTER: And even patted him on the back for getting $60,000.

MR. RUBINSON: And made Mr. Weitzman come back and say he gave me back and Stein back two-thirds of the money in Calculator, which led the jury to believe that we take cash kickbacks.

Now if this gentleman here can't play this game fair and square and let all the facts come out before the jury, then I should sit down because I am not an attorney, I don't know how to cross-examine this man. I am doing the best I can. I took instructions from you at the side bar not to go into certain matters of this gentleman, I am not going into those matters, but if I can't cross-examine him how is this jury ever going to know just what is going on.

They keep talking about different deals and different deals and different deals and I am sitting there at the table trying to figure out if this jury thinks that

we are -- that we do these deals day-in and day-out.

I am trying to show this jury that all the deals we have done are legal, have been legal, this witness-- I may make him my witness-knows the are legal, and I think that we should be permitted in a conspiracy case to show that we don't have continuing acts, that this act here is legal like every other one was legal, and this is all we are trying to do here.

If I don't know how to do that myself, then you better carry on this case and I'll do the best I can.

MR.CHESTER: I have the same objection. I can't do it. Here we have witnesses from the stand, which is the state's own Government witnesses, which they they have seen fit not to indict. They could be sitting here just as easy as anybody else. But they can't say a word as to wht has gone on before.

Now, Wohl gets up, tells what I said to my French poodle, what I said to my accountant. I have got the busiest office in town. He can say anything, do anything he wants, and I have to sit here like a fool.

Then when we want to get the truth from any witness, who also should be sitting down here, we can't even ask them their name. It is not fair.

This man knows that spin-offs are legal and he will testify to it, because he sold stock in all three of them. He has had attoraeys' opinions. This man is an expert.

I think it only fair to let us get into it.

MR. RUBINSON: I may want to make him my own witness before this is all over.

THE COURT: Mr. Rubinson and Mr. Chester, no witness is permitted to come here and tell us what is legal and what is illegal. Therefore, for that reason also, you can't ask him about other transactions in which you engaged

with him for the purpose of proving that those transactions were legal. That is not permitted.

Do you have another question for the witness?

MR. RUBINSON: All right, your Honor, I won't get into that area with him, whether they are legal, but I will get into accounting areas with him and to discussions that I have had with him through the years, because not only was he an accountant on the outside, but he was on my payroll as my house accountant.

Mr. Chester was on my payroll as my house counsel.

I want to show that everything we did we discussed, the three of us, we discussed every move we did, every business deal. Mr. Hochen saw fit to bring up his diary, which shows 300 business propositions he looked at because of me. I want to question him about those 300 different business propositions to see what he said about them, whether I influenced him, like he stated here, that I told him to buy the stock.

I have testimony in here before the SEC in 1972 where he sais "Rubinson never told me to do anything."

THE COURT: Mr. Rubinson, on cross-examination you can only ask this witness about matters gone into by Mr. Wohl on his direct examination. You can't ask him about matters that Mr. Wohl did not go into. You understand?

MR. RUBINSON: I understand what you are saying.

THE COURT: That is the only way we can have an orderly trial. Those are the rules.

MR. RUBINSON: This is the problem we are having here. That's why the trial is not orderly, because Mr. Wohl is not bringing out the entire truth.

Otherwise, if he would bring out, instead of just putting it in the papers and then upsetting everybody here by telling them about Calculator and all of these thigns and not letting us get into it-- I think this is a one-sided affair and if I was an attorney I am sure I would have 36 objections and 46 citations to give you, but I don't know any citations, any objections, and if you tell me to go ahead and not question him--

THE COURT: The question which brought this about, this objection from the Government, was whether this witness could tell us how Allan Electronics was established.

That was the question you put to him, I believe.

The objection to that question is sustained.

Now, do you want to go on with something else?

MR. RUBINSON: Will he stipulate that Allan Electronics was a legitimate deal, in your estimation? Will he stipulate?

MR. WOHL: Your Honor, the only point, which I

think the Court has already made, is that these defendants are not indicted for Allan Electronics or any other transactions. And therefore we submit it's irrelevant.

MR. RUBINSON: It says here the defendants --

THE COURT: Mr. Rubinson, I know that you have gone over that point and I have ruled on it now and the Government is unwilling to stipulate as to what was legal according to you.

So will you please proceed with another question to the witness?

MR. CHESTER: Bill Chester.

I just want to put another objection in the record. Every time Wohl gets up and talks about whatever he talks about, 1966, 1967, he said we started conspiring August 1, 1968, he can get anything in the world he wants in. I don't understand why anything, why a conversation I had with somebody in Alaska through the pipeline comes back through here, through four people, and I get up and object; Mr. Wohl can do anything, and we can't even tell and show the jury what the truth is.

He doesn't have to testify whether it's legal or illegal. Can't he testify what happened, not whether it's legal or illegal?

MR. RUBINSON: Your Honor, could he testify --

THE COURT: Mr. Rubinson, you can ask the witness about anythinghe testified to on his direct examination, but certain matters cannot be gone into on the ground that they are not relevant, as I told you before, like how Allan Electronics came to be established and all of that.

You can ask him about any of these other transactions, like Mobile Homes or Diston Industries or the sale of stock to him, allthese matters about which he has testified on his direct examination.

You can ask him questions about that.

MR. RUBINSON: I will tell you, I am going to sit down now, your Honor. Maybe I will get up a little later after I hear a littlemore and get a little more practice, because there will be a time in the summation maybe when I can give the jury the true facts, or in my opening.

THE COURT: You want to ask the witness about his being an unindicted co-conspirator in this case, which we discussed before?

MR. RUBINSON: I don't want to embarrass this wit-- ness. I don't want to ask him that. Mr. Wohl jumped up and stopped me from asking him if he even sat on a board with me. I wasn't going to ask him that. I told you that standing right there. But Mr. Wohl got very nervous that I was going to look to impeach this gentleman. I love him.

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Q You tell me how.

A Because on the 30th of January there was supposed to be a closing on Scandia for National Ventures.

Q Did it close?

A I guess not.

MR. WOHL: I will object, your Honor.

A I don't know.

MR. WOHL: Mr. Chester seems to be cutting the witness off.

MR. CHESTER: I wish I could cut him off.

MR. WOHL: I am sure he does, but--

MR. CHESTER: If you will stipulate to give me four hours then I won't cut him off, I will let him talk all day.

THE COURT: Mr. Chester, we can't conduct any trial where a lawyer or a party gets up to ask a witness a question and then cuts him off. That is a disorderly trial and it is not permitted.

If you put a question to a witness he is permitted to answer.

MR. CHESTER: He can't answer for six hours and then the Court tells me I only got two hours to question him.

THE COURT: He is not answering for six hours. He

is doing what you asked him to do, explain these notes on the paper.

MR. CHESTER: Fine, Judge.

THE COURT: And when he starts to explain it, you cut him off.

MR. CHESTER: I will try again.

MR. WOHL: Your Honor, I think the witness has tried several times to explain why the Scandia matter seems in his mind to relate to National Ventures and Mr. Chester keeps cutting him off on that.

I think the witness should be given an opportunity to explain that.

MR. CHESTER: Judge, he said the deal was never closed. It is like getting a date with a girl and she doesn't show up. So you are talking about some girl you got a date with you never saw in the first place.

This is a serious charge. I am not interested in what didn't close.

Wohl here has said that Stern-Haskell is illegal and this is the question before the Court. He wants to talk about everything except that. He doesn't want us to talk about any corporation, but then if he wants to talk about Scandia, Blandia, anyone, Wohl gets up and says "Let him talk."

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MR. KEEGAN: The area I want to explore with the witness has to do with the fact that prior to this he had experience with spin offs, he was heavily involved in all of Rubinson's deals, Allen Electronics, Calculator Computer, and received Calculator Computer spin off stock, and wrote to his attorney for an independent legal decision as to the transferrability of spin off stock by a person in his position, that is to say, one who is not an officer or a director or controlling person or ten percent holder or substantial stockholder in the company that issues the spin off, or the company which is spun off.

He wrote to his attorney to see his position in that manner and his attorney gave him a two-page opinion letter which in my opinion says they are freely transferral the same as if they were registered shares and that is the situation Mr. Reynolds finds himself in.

He bought his Stern-Haskell stock from Andy McKay. Reynolds was not an officer, director, shareholder of National Ventures. He held some 200 shares as trustee for his three minor children, and I think not even that much, so he was not an officer, director or shareholder or control person in National Ventures, nor, obviously, was he an officer, director, shareholder or ten percent shareholder in Stern-Haskell.

He was an investor who purchased from soneone else who received spin off stock and he resold it in New York.

My position is the facts here are the same as the facts Mr. Hochen presented to his counsel on Calculator Computer and he got an opinion his stocks were freely transferrable.

Reynolds is in the same position. I think the jury should know that. That Reynolds is indicted for doing exactly what this unindicted co-conspirator did.

THE COURT: As the Government has previously pointed out, this witness' state of mind is not in issue here. What's in issue is what these defendants believed at the time, when they sold shares which they knew should have been registered. That is what the jury has to determine, not whether Mr. Hochen know at the time what his state

of mind was. That is not an issue for the jury, and on that basis the objection is sustained.

MR. KEEGAN: I agree with everything your Honor has just said, except it is relevant because the difference between Hochen is he is on the stand and he said I didn't know, as far as I knew everything I was doing was legal. Reynolds will later take the stand and say exactly the same thing, which puts him in the same position as Hochen, and the jury's question is why is one indicted and one unindicted if they are in the same position.

If they believe Reynolds didn't know --

THE COURT: It is not for the jury why this man is not indicted and the jury will be so instructed, that why he is not indicted is not a part of their deliberations.

That is a question which was decided by the U. S. Attorney and the grand jury.

MR. KEEGAN: I don't disagree with that, your Honor. My point is Reynolds will deny knowing that anything he did was wrong, just as this witness denied anything that he did was wrong, and they did the same things, and that is relevant for the jury to consider in determining whether Reynolds was guilty.

THE COURT: This witness cannot testify as to what Mr. Reynolds had in his mind in 1969.

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MR. KEEGAN: I didn't say that, your Honor.

THE COURT: Or what Mr. Reynolds believed.

MR. KEEGAN: I am not going to ask him what Reynolds believed. But I am allowed to ask an unindicted co-conspirator whether he did anything he thought was illegal. That's why he is called an unindicted co-conspirator.

THE COURT: No, the witness' are being asked, and this has been done repeatedly here, to try to get before the jury that what they did with respect to particular things was legal or illegal.

They are not to answer that question, because that calls for a conclusion on their part. Even whether what they did here was legal or illegal, that is going to be for the jury to determine after all the evidence is in and after I have instructed them as to what the law is. They are going to decide whether they violated the law knowingly, wilfully and intentionally.

And witnesses are not to be put on the witness stand and asked, isn't it so that Reynolds did not violate the law knowingly, wilfully and intentionally?

MR. KEEGAN: You keep saying that. I have never suggested I am going to ask him a question like that.

THE COURT: What would be the purpose of it?

MR. KEEGAN: I am not going to ask him that. I told you I am not going to ask him what Reynolds did. I keep telling you the same thing.

THE COURT: You will use his testimony then to say since he thought it was legal Reynolds must have thought it was legal, is that it?

MR. KEEGAN: No, Reynolds will take the stand and say I did not knowingly violate any laws, just as this witness did not knowingly violate any laws.

If I can ask Reynolds that, why can't I ask him that, him meaning Hochen.

I can ask Reynolds did you knowingly violate the laws, and he will say no. Why can't I ask this witness the same thing? He is an unindicted co-conspirator. If they are in exactly the same position the jury has to say if the Government feels Hochen should not be prosecuted because he didn't know he was doing something wrong then Reynolds isn't guilty for the same reason, he didn't believe he was doing anything wrong, provided they believe him.

THE COURT: The jury has to decide --

MR. KEEGAN: If he is telling the truth.

THE COURT: Can I finish?

MR. KEEGAN: Yes.

THE COURT: The jury is going to have to decide

mde 6

based on all the evidence in the case, and that would be including a consideration what this witness did, whether this witness also did something which was illegal. They probably have to consider that also, yes, his participation, and whether he did things which were similar.

That is true. And I am going to instruct them that even though he is an unindicted co-conspirator they are not to consider his guilt or innocence, but they may very well have to consider his participation in these crimes and the nature and extent of it.

They are not to determine his guilt or innocence, I should have said, because he is not on trial, but certainly they have to consider what he did, what he said, what he thought.

He is a co-conspirator. That's why he is testifying. But they have to decide only what Mr. Reynolds thought.

MR. KEEGAN: That's correct.

THE COURT: About the need for these stocks to be registered in connection with that particular charge and not what this witness thought.

MR. KEEGAN: But it does give them an opportunity. It is still a jury question, do they believe Reynolds when he said I didn't believe it was wrong. They may not believe

him.

They may not believe Hochen. They may say they had to know it was wrong. On the other hand, I think it is relevant to get it before the jury. I don't see why if I can ask Reynolds did you know you were doing anything wrong, I cannot ask Hochen the same question.

THE COURT: No, because it calls for a broad conclusion on the part of the witness, did you ever do anything wrong?

MR. KEEGAN: No, I am not going to put it that way. Just in this case, did you ever consider that anything you were doing in your mind was illegal.

THE COURT: Did you want to say something, Mr. Wohl?

MR. WOHL: Well, I just wanted to add, your Honor, that the Government would submit that the reason that Mr. Hochen cannot be asked that, and Mr. Reynolds could be asked that, is because Mr. Reynolds is a defendant on trial and Mr. Hochen is not a defendant on trial, and that's the whole difference.

Any kind of a suggestion that because Hochen or any other witness thought it was legal, therefore Reynolds must have thought it was legal, would be improper reasoning and therefore that kind of testimony should be kept out.

THE COURT: We are also going to have some defendants here testifying, I gather, Mr. McKay, and Mr. Stein, who have pled guilty. Do you want me to tell the jury that because they pled guilty and violated the law knowingly these defendants must have done the same thing? Do you want me to do that?

MR. KEEGAN: This discussion has not revolved around what you should --

THE COURT: It is the same point.

MR. KEEGAN: It is not what you should instruct the jury.

We haven't talked about that at all in this discussion.

THE COURT: The possibility is that the jury has to determine what the state of mind of these defendants is. They are the ones who are on trial. What they believed in 1969, whether they acted knowingly and wilfully with respect to whether those stocks should have been registered, and whether this witness knew that he was acting illegally is not before the jury. His state of mind, in other words, is not before the jury. For that reason, the Government's objection, as I assume you anticipated they would make, to such questions put to the witness about his state of mind, is sustained.

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We will recess now to 2 o'clock.

(Adjourned for luncheon recess.)

AFTERNOON SESSION

2:10 p.m.

(In open court.)

L O U I S L A R R Y H O C H E N, resumed.

THE COURT: You may bring in the jury.

MR. KEEGAN: Your Honor, before you do that I would like to make a statement.

Co-counsel have advised me during the luncheon recess I was rather loud. I don't mean to be. Maybe my Irish temper gets the better of me and I get carried away and I appear disrespectful. I am sorry if I appear that way to your Honor.

THE COURT: All right.

Bring in the jury.

MR. KEEGAN: I would like to make one final offer, on the suggestion of co-counsel, with regard to a question I know the Court has already ruled on, which has to do with whether or not this man thought anything he was doing was illegal relating to these companies.

The suggestion that the question is relevant because if the answer is yes, I could follow that up to see if he has a motive to testify for the Government because he is unindicted.

On that ground, it is relevant. If he says no,

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I can-t persue it anymore.

I would like permission to question him on that and ask that your Honor reconsider her earlier ruling.

THE COURT: I don't know that that goes to bias.

MR. KEEGAN: And had a motive to testify for the Government.

THE COURT: You can ask him if he is not an unindicted co-conspirator, as I urged Mr. Rubinson to do, bring out that he is an unindicted co-conspirator here. He is named in Count 1 as a co-conspirator.

I am going to explain to the jury that there are people named here who are not on trial who are charged by the Government has having committed the same crime. That is what a co-conspirator is.

MR. KEEGAN: Okay, your Honor.

That will take care of it. I won't ask the question.

There was one other area and that has to do with a letter he received from independent counsel in '68.

Admittedly it has to do with Calculator Computer as a spin off of Allen Electronics. I want to establish that he sought independent legal opinion, received independent legal opinion, and I want to ask him if he showed that or discussed that opinion with any of these defendants, because

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it would go to their state of knowledge if he told them that his attorney said that it was okay to go ahead with this deal.

Admittedly it involved a different corporation, but it does go to the state of knowledge of the defendants to whom this information was related, if in fact there are any. He may not have discussed this with any other defendant. I don't know. But we have a letter which he received from his own attorney which essentially asks his attorney "May I sell my spin off stock in Calculator Computer," and the answer to my understanding was, "Yes, you may."

THE COURT: What has that got to do with Stern-Haskell stock?

MR. KEEGAN: It is the same type of transaction. It is not relevant unless he discussed that letter, the contents thereof, with some defendant here on trial. If he did it goes to their knowledge and it gives the basis for their belief that what they were doing was legal.

MR. WOHL: Your Honor, the Government would submit that that would not be proper because, first of all, the letter goes to Calculator Computer and the Allen Electronics transaction and it is not part of the indictment. It is a different situation.

There is no way that this witness could testify

that some other defendant saw a Calculator Computer letter and thought that this was the same thing and therefore the Calculator Computer letter covered the Stern-Haskell situation.

Only a defendant could testify to that. The witness couldn't possibly testify to that.

In addition, the discussion that he had with his attorney, so far as I can understand it, is outside the presence of these defendants. The defendants were not there and therefore, couldn't have relied on that.

Primarily because it is a different situation, and therefore could not be the basis, at least circumstantially, for reliance by the defendants, it would not be proper to put that in through this witness.

MR. KEEGAN: Your Honor, it would lay a foundation for any defendant who later gets up and says, "Yes, as Mr. Hochen has testified, he showed me the letter and we discussed it. That is part of the basis for my belief that I wasn't doing anything wrong in this later deal, because to me, they are the same."

If the Government says the deals are different it is their burden to prove how they are different and why this particular deal was not the same as Calculator Computer. That is their burden.

This letter may be addressed to Hochen. If a defendant gets up and says "I saw this letter," we would be met with an objection, "It is not addressed to you. What do you mean, you saw it?"

So why can't we establish a foundation through this witness, if indeed he showed it to anyone else?

THE COURT: Did you show this letter to anyone else?

THE WITNESS: No, your Honor.

MR. RUBINSON: Your Honor, I have a copy of that letter. I was president and chairman of the board of Calculator Computer Leasing. Mr. Hochen and Mr. Chester were very close to me. We had many, many meetings on this subject of stamping investment stock, as examining the books, like Mr. Hochen said before, of a transfer agency to see if all the certificates that were coming through were legend improperly on the spin off.

We had no intention at that time of issuing stock that was freely tradeable until Mr. Hochen, Mr. Chester and myself decided to seek counsel's opinion. So since Mr. Hochen was a 20,000 shareholder of Allen and got 20,000 shares of Calculator, we didn't want to take the stamp off his stock until he got such opinion. When I say "we" I mean Chester and myself, Chester being legal house

counsel.

So Mr. Hochen went out and got this legal opinion, and we demanded all the same type of legal opinions from everybody that had the spin off stock, and this is how it came up to free up the stock as to show our intent.

We did every due diligence in this, and Mr. Hochen was present at most of these meetings, I say 99 percent of these meetings, and there were over a hundred meetings, and so was Mr. Chester.

What I was going to try to bring out is that we took the diligence to show our intent, and Mr. Hochen was part of this, that he did take an active part in the company. He was on the payroll. He was not just an outside accountant, but he was there every day.

THE COURT: Wait a minute now. You are a long way from this letter.

MR. RUBINSON: Mr. Hochen said he did not show anybody a copy. I have in my file a copy right here, that he did in fact give it to me and Mr. Chester. Otherwise, he couldn't free up his stock. Here is a copy. Calculator Computer Corporation did require such a letter. It is made out by Truett & Watkins. I have another copy here, two more.

MR. CHESTER: Judge, also it goes to the intent.

When Mr. Hochen was working as a CPA with Mr. Rubinson and myself, Bill Chester, when Calculator was spun out, that's when we went to the SEC. He got his letter after the SEC, as I recall. He gave a copy, but we wouldn't remove it. But Mr. Hochen also got a copy of the letter from Mr. Heneghan from the SEC, who said that the spin off stock of Calculator Computer would be free dividend and freely transferrable and saleable if anybody was not an officer, director or owner of more than ten percent.

So he had this letter, but he wasn't -- this wasn't enough for Mr. Hochen. He went out and got his own personal attorney's letter and brought it back and gave copies to myself and Mr. Rubinson. We got copies of this letter. This goes to our intent once we spun off these other companies.

MR. RUBINSON: Your Honor, one more thing. As far as the discussions with Mr. Hochen, Mr. Hochen gave to th the Government which is evidence from the 3500 material, a letter from two attorneys as to showing that Mr. Goldberger, the attorney for the small issues in the SEC here in New York, told him that it is not necessary to register the spin off dividend, and this is the main important letter that we would like to get in, and Mr. Hochen has a copy of this letter.

Mr. Hochen has been a part and parcel to every transaction we have done to show our intent of what happened in Stern-Haskell, that we did not do this wilfully and knowingly.

THE COURT: That relates to what?

MR. RUBINSON: This relates to exactly the same situation as Stern-Haskell in the General Auto Parts, which was a 200,000 share spin off, which was investigated through Mr. Goldberger, the small issues in the SEC, in the Regulation A section in the New York Regional Office, which said it is not necessary, and this letter is November 13, 1968, which was done -- got this letter shortly prior to the Stern-Haskell situation, which shows that we didn't have any wilfulness.

Now, I am trying to bring in this letter as evidence. Mr. Wohl has a copy of this letter because it is in the 3500 material. Everybody is cognizant of this letter and I am trying to bring it out through this witness here that in our meetings we discussed these things. He was part and parcel of our meetings. It is not something that somebody told him.

It was something that he took active part in.

So his knowledge is very valuable and his knowledge should be shown to the jury, that he knew, that he took the

diligence with these two defendants, Chester and myself, that he took the diligence with us and went through these things to show that there was no wilfulness here.

THE COURT: He took the diligence, that is, he was the one who got the legal advice for you?

MR. RUBINSON: No. The three of us together did at meetings. He got his own, but he knows about every letter that we have, because he is the one that examined the stock transfer agency, not the one of Chester's, this one of Moffett's, and made sure that we wrote him a letter and made sure that every certificate was stamped properly.

So we had to discuss this. His certificate was stamped. He looked to remove the legend. That's why he went a step further, because he was a big holder of stock in the corporation.

So what we are just trying to do here is trying to convince your Honor here, the Court, and also the jury, of no wilful intent in this whole situation.

THE COURT: And you want to do that by putting in two letters?

MR. RUBINSON: I may have more letters. This is why yesterday when I tried to get into subjects I was not looking to impeach the witness, I was just looking to show that he was part and parcel with us and took the proper

diligence, that we had no intent to defraud anybody.

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MR. ROBSON: Your Honor, may I be heard for just a moment?

THE COURT: Yes.

MR. ROBSON: I think perhaps if we look at the offer in the area that we want togo into in terms of say counterfeit dollar bills, which is a standard example in the similar acts filed, I think you can understand better what we are trying to say.

Normally a similar act is introduced for the purpose of showing that when the defendant did the act with which he was charged he can't say it was an accident or inadvertent or innocent because he has done the same thing previously, and therefore if he did it twice it is more likely that at the time he did it,it was wrong.

If on a prior occasion a defendant had, before passing an identical bill, gotten an opinion letter, say, from sometbody that that bill, which is identical, was not a counterfeit bill, or if sometbody told him, if this witness, for example,had said "I checked with the Treasury Agent who said this is not a counterfeit bill," he should be entitled or would be entitled to show that in order to show that the bill he passed was the same bill, and therefore he had a reason to believe it was a valid bill.

Now, the defense of these defendants, all of the

defendants here, is that they believed that stock which was acquired and immediately distributed by a stock dividend was an exception to the rule requiring registration, and they are basing that on a number of different things.

One of the reason they believed that it was a proper distribution without registration was because only a few months earlier they had done exactly the same thing and it had been approved by the SEC or by this man's lawyer, and that fact goes to what they believed in February or April of 1969.

THE COURT: They can get that in. Certainly they can put on a case in which they show exactly that, everything you have said.

Defendants can put on their case in which they show exactly what guided them and what they did here.

There is nothing wrong with that.

What you want to do and what the others want to do is to get in the state of mind of these defendants through this witness and my ruling is that they can't get it in that way.

They can't have this witness tell us what the defendants had in mind when they acted.

MR. ROBSON: They don't want to ask hom what they had in mind, just simply what he told them. In other

words, all they want to do is have this witness testify that in an identical situation he gave them a copy of an opinion letter --

THE COURT: I just asked him if he gave it to them. He said no.

Is that your testimony?

THE WITNESS: I believe so.

Now I don't remember any more. I don't think so, I don't think I gave that letter.

MR. ROBSON: They want to explore that. They are bound by his answer, obviously.

MR. RUBINSON: I am not arguing with Mr. Hochen, which I have no intention of doing, just to be able to state to the Court or ask him a question that if the stock was legended, in order to get the legend removed we required this letter, and that's how we got this letter into the company.

I have the Calculator Computer file here.

Now, I won't be able to get this letter unless Mr. Hochen gave it to me. How would I get it? It is addressed to him.

THE COURT: Do you recall that?

MR. RUBINSON: I think Mr. Hochen should think that over for a minute.

THE WITNESS: No. I would have to see the letter, frankly.

MR. WOHL: Your Honor, may I be heard on this?

THE COURT: Let's see if there is any basis for this claim.

The claim is that he showed them the letter and that is what they want to show.

Let's find out whether there is any basis for this claim or not.

MR. FISCHETTI: Judge, may I confer with Mr. Keegan?

THE COURT: Just a minute. Let's take one thing at a time, will you, please?

MR. FISCHETTI: Sorry, Judge.

THE WITNESS: This letter speaks for itself. I evidently gave that to them.

Now, I don't know -- I am not making a legal opinion on this, what it says, whether it is effective or not.

MR. RUBINSON: Would your Honor like to see the letter, please?

THE WITNESS: I wasn't aware of this.

MR. RUBINSON: Thank you.

THE COURT: This is a letter on the stationery of Truett & Watkins dated July 9, 1968, addressed to Mr. Hochen, and it reads as follows, in the third paragraph:

"You further advise that you hold no position in Allan Electronics Industries, Inc. either as an officer, director or shareholder whose number of shares can affect the assets of the corporation or its policies or the value of its remaining stock and that your holdings are both actually and theoretically negligible in any and all respects."

I gather the Government's claim in this case is different. Is that right?

MR. WOHL: That is correct,your Honor, and that is not the only difference.

There would be a number of them.

THE COURT: So that it isn't a comparable situation, Mr. Rubinson. The Government's claim here is that these shares were held by persons who were in control positions or officers.

Is that right?

MR. WOHL: That is part of the Government's claim, your Honor.

MR. ROBSON: Your Honor, that is not right, and Mr. Wohl knows that. No defendant here was an officer of Stern-Haskell except for Mr. Haskell. No defendant in this case was an officer, director or a principal stockholder of Stern-Haskell.

THE COURT: Of National Ventures.

MR. ROBSON: But National Ventures stock is not involved. It was Stern-Haskell stock that was sold.

MR. WOHL: If Mr. Robson were at all familiar with the letter we are talking about he would see that in the situation which the letter is discussing Allan Electronics was the spinning parent, Calculator Computer was the spun-off stock, and just as the Court just pointed out, the letter stated that Mr. Hochen was not an officer, director or substantial stockholder of Allan Electronics, which was the parent, and that would not be true of several of the defendants here.

In fact, I can't think of any defendant that it would be true of that is charged in the unregistered stock counts.

Therefore, that is a very significant difference between that situation and this situation.

MR. KEEGAN: Your Honor, that is a clear statement of the Government's claim, but we are here to see if they can prove their claim.

The fact that they make the claim doesn't resolve the issue.

Not only that, Mr. Reynolds, I don't believe Wohl will claim that he was anofficer, director, significant

shareholder, control person of National Ventures or Stern-Haskell.

If he does it comes as a great surprise to me. And if he does he has to prove it.

MR. CHESTER: Judge, may I say one thing?

Bill Chester here.

On the same situation before this Truett & Watkins letter came out I went personally to the SEC in Washington, which is one of the government officials, I think Mr. Wohl will acknowledge, and in their opinion-- it had nothing to do with Allan Electronics-- in their opinion, if a person was not an officer, director or held more than 10% in the spun-off company -- now, this letter goes to Allan Electronics, Heneghan's letter went to Calculator.

Now, which is right, which is wrong, I don't know. The SEC letter,which we will get in, I assume, since I received it, talks as to the spun-off company.

Now, true, this letter talks about Allan Electronics, the position with Allan Electronics.

Heneghan's letter talks as to the position of the spun-off company, which I think was really the law at that time, as all the lawyers and the SEC seemed to know it.

Now, the problem is, with all these letters, it again gets back to intent. Business Week, Harvard Review,

we were trying to do the best we knew how to keep up with what the law was.

THE COURT: You can show all that in your case.

MR. CHESTER: But this letter should be introduced so to show our intent at the time we just got through spinning off a couple of companies that everything was legal. It is a jury decision.

MR. WOHL: Your Honor, the point here that the Government would make is that it is not analogous to Mr. Robson's identical counterfeit bill situation.

All of these transactions, except for the Stern-Haskell, Diston and Mobile Home deals, which were virtually identical, all of them had some differences one from another.

As your Honor pointed out, the Truett & Watkins letter makes that clear as to their opinion. The letter that Mr. Chester is referring to from Mr. Heneghan is a letter directed toward the selling by one specific stockholder, not all the shares being tradeable.

Now, at this point, where we have two opinion letters in evidence relating to the specific transactions in the indictment, the Government submits that this letter is not identical.

If a defendant wants to get on the witness stand and testify "Well, I had this other letter that related to

a similar situation and in my mind I thought that they were the same," that might raise a different legal issue, but it would not be proper to admit these at this point and in effect put the Government in a position where there are something like four or five transactions occurring prior to the one they were indicted for that they were not indicted for and then the Government would have to in its case-in-chief prove they were guilty not only in the transaction in the indictment but also in all of these other transactions.

We submit that would not be correct and that this has to be, if it is admissible at all, has to be in the defendants' case and not in the Government's case.

THE COURT: Do you want to say something finally, Mr. Rubinson?

MR. RUBINSON: Yes, Ma'am. There are very slight differences -- I must agree with Mr. Wohl-- in the Calculator situation. But Mr. Hochen turned over another letter which he got from me at one of our meetings, and where Mr. Chester was there, too, on exactly the same situation.

THE COURT: Mr. Hochen turned over to --

MR. RUBINSON: A letter to Mr. Wohl. It is in the schedule of the 3500 material. Here is a copy of that letter. It is exactly the same amount of shares that were

spun off.

THE COURT: What letter is that?

MR. RUBINSON: This is November 18, 1968, from Irwin Germaise, Attorney, to Frank Freeman, an attorney, as far as the General was concerned, 200,000 shares that were spun off.

THE COURT: What was the name of the corporation?

MR. RUBINSON: General Auto Parts, which was mentioned here before in this court.

Now, this letter here states exactly -- would you like to see this letter, your Honor?

THE COURT: Yes.

MR. RUBINSON: Thank you..

This letter states exactly that these shares are freely tradeable and has been discussed with two attorneys, just to show the diligence of Mr. Chester, myself and Mr. Hochen took in this situation.

THE COURT: With respect to this witness, you can ask him whether he sent you any letter.

MR. RUBINSON: No, he didn't send it. He received it at one of our meetings from me. It is in his schedule in the 3500 material.

THE COURT: This witness received this November 18 letter from you?

MR. RUBINSON: Yes. I received this letter from Mr. Freeman and Mr. Germaise and I gave a copy to this witness and to Mr. Chester at one of our meetings and it is listed on the schedule in the 3500 material as Mr. Hochen telling him about it.

MR. WOHL: That is correct, your Honor.

This witness did have the letter in his possession.

The point again, however, is that this is a letter that relates to a different transaction.

If somebody is going to claim that it was exactly the same transaction, or at least the defendant thought it was the same transaction, and relied on the General Auto Parts letter in the Stern-Haskell transaction, it would have to be a defendant who could say that that was his state of mind.

In addition, this particular letter is from Irwin Germaise, who is not on trial here, to Frank Freeman, another individual not on trial.

The Government has no way of showing what was told to these attorneys to cause them to issue these various opinions.

You have got a three-paragraph letter here, and there is no way of probing into whether this was the same situation or a different situation, and the Government would again submit that to allow letters like this into evidence without any testimony from any defendant on trial that he relied on those letters would just require the Government to prove four or five cases instead of just one case, or

one case with the two similar acts which we contend would be the proper thing to do.

THE COURT: Yes, the Court agrees, and as I ruled previously this witness cannot tell us what some defendant on trial relied on or had in his mind in connection with the Stern-Haskell stock which is involved in this indictment.

So these letters cannot be admitted through this witness for that purpose.

They can come in on the defendants' case to prove what the defendant had in his mind.

MR. CHESTER: Judge, may we mark these?

THE COURT: Yes, they can be marked, certainly.

MR. CHESTER: In case we have to go through an appeal.

THE COURT: All right, let them be marked. Rubinson Exhibits whatever the next letters are.

MR. RUBINSON: I don't have any.

THE COURT: All right, Rubinson's A and B.

* * *

CROSS-EXAMINATION

BY MR. ANDREWS:

Q How do you do, Mr. Hochen.

A Good afternoon.

Q My name is Tom Andrews.

I have some questions for you, if you don't mind.

A Who do you represent, which defendant?

Q Mr. Wax and Mr.Levine.

Do you know those gentlemen?

A What is Levine's first name?

Q Lawrence.

A I believe I met him once or twice, but I don't know anything about Mr. Wax.

Q Doy ou recall when you met Lawrence Levine?

A About 1960, 1961.

Q 1960?

A Yes.

Q Mr. Levine, would you stand up, please?

(Defendant Levine rose)

Q Is that the same man you met in 1960?

A I think so. I think so. He doesn't recognize me. I didn't have a beard.

Q Do you remember the circumstances under which you met him; would it have anything to do with business?

A It had to do with some matter which Leo Davis and Sidney Stein were involved in.

Q In 1960?

A I think so, roughly. A year or two one way or another.

Q Did you know him in 1969-1970? 1969?

A No.

Q Did you ever have anything to do with him?

A No.

Q Did you ever have anything to do with Lockwood & Company at that period?

A Only through the-- on the basis of the certificates.

Q You directly, did you do business with Lockwood directly, you yourself?

A No, sir.

Q YOu were given some certificates by someone that had the name Lockwood & Company on them, is that correct?

A Yes, sir.

Q All right. We will get to that later, if you don't mind.

Mr. Hochen, I would like you to go back for a moment, if you will, to the meeting at the office of Blank Furniture in the early part of 1969.

Do you remember that meeting?

A Some time in February on the Stern-Haskell matter?

Q That is correct.

A Yes.

Q Do you remember who was present at that meeting?

A I testified who was present.

Q Would you mind telling me again?

A Norman Rubinson, Sidney Stein, Al Feiffer, another individual who was the nominee.

Q Is that Mr. Silber?

A Silber. There was Haskell, and Chester, and Weitzman, and myself.

Q Mr. Levine wasn't there, was he?

A No.

Q Mr. Wax wasn't there, was he?

A No.

Q Were their names mentioned at all at that meeting?

A No, sir.

Q Now, you said another fellow was there, a nominee, Mr. Silber?

A That's right.

Q What was there about Mr. Silber that made him a nominee in your mind?

A Sidney said so.

Q Just because Sidney said so?

A That's right.

Q Any other reason?

A No, I never saw him before.

Q It wouldn't have anything to do with the fact that he got the same amount of stock that you did, would it?

A No, that's not the reason.

Q I see.

Just because Sidney said "You are a nominee" that man is a nominee, is that correct?

A That's right.

Well, he named the nominees.

Q The only difference between you and the nominees that Sidney named was that he didn't name you, is that correct?

A That's right.

Q You got the same amount of stock as they did, is that correct?

A That's right. I didn't know it at the time, though.

Q You didn't know what?

A How many shares each nominee was getting and how many shares I was getting.

* * *

Q No, no, I am talking about Stern-Haskell.

A I can't answer that question because at that time I am talking about in January there was no closed deal with --

THE COURT: No, the question is did he ever tell you that he was?

THE WITNESS: No.

Q Did I ever tell you that I was a principal in Diston?

A No.

Q Did I ever tell you I was a principal in Mobile Home Ventures?

A No.

Q Isn't it a fact that in February 1970, when you testified before the SEC and they asked you whether I knew anything about Mobile Home Ventures, you said I did not?

Is that correct?

MR. WOHL: Objection.

THE COURT: Yes.

We are going now beyond the scope of the redirect. On this recross, Mr. Rubinson, you are limited going into something new brought out by the U. S. Attorney on redirect and that is the Scandia matter. That is all you can go into at this time.

* * *

MR. HIGGINS: I assume it is not being offered as against my client. This man has testified about Mobile Homes.

MS. HARRIS: Your Honor, perhaps I should drop back and make an offer with respect to Mr. Stack's testimony, number one.

There will be two aspects to it. One aspect is certain with respect to Mobile Home Ventures, Inc. That is with reference to the similar act and it is offered as against only those defendants who were involved or who will appear to be involved in his testimony.

There is another aspect and that is the aspect--

MR. CHESTER: Judge, I object to her summing up here.

THE COURT: Just a moment. I have to rule on the admissibility of these documents and as to which defendants.

She is now explaining to me against whom they are being offered.

All right.

You may proceed.

MS. HARRIS: To the extent that the witness' testimony concerning conversations about Stern-Haskell with a defendant or in the presence of a defendant, it would be offered as against all defendants subject to connection.

THE COURT: With respect to the documents which you are now offering, the witness has testified that he received all of those from Mr. Chester, I gather, at some meeting with Mr. Chester.

MS. HARRIS: That's correct.

THE COURT: So that you want to offer those now certainly as against Mr. Chester and subject to connection against the other defendants, is that it?

MS. HARRIS: I don't think so, your Honor.

These documents were given to the witness in the context of the Mobile Home Ventures conversations.

THE COURT: So that they would be admitted as against Rubinson, F[illegible]ffer, Chester and Reynolds, is that it?

MS. HARRIS: As far as the documents are concerned, that would be correct, your Honor.

THE COURT: All right. So they are offered against those four defendants, is that it?

MS. HARRIS: That's correct.

THE COURT: Rubinson, Feiffer, Chester and Reynolds, with respect to the Mobile Homes matter.

Do you have an objection, Mr. Rubinson?

MR. RUBINSON: Yes, I object, because one minute ago she said, Ms.Harris said, that it's going to be offered only as to his testimony.

He is not going to testify against me in this particular thing.

How can it be offered against me when she just said that it's going to be offered only as to his testimony and subject to connection in the Stern-Haskell matter?

So let's distinguish the two matters.

When I cross-examine him I will clear up the Stern-Haskell matter.

THE COURT: I don't understand your objection.

MR. RUBINSON: My objection is this: Ms. Harris said that she will offer the Mobile Home as a similar act only as to whose name he testifies about, which did not include Rubinson, Feiffer and everybody else.

Then she said she will offer as subject to connection in the Stern-Haskell matter as to all defendants.

THE COURT: Yes.

And then she sought to clear it up by saying -- is this correct, Ms. Harris -- that Government's Exhibits 121A through D are now offered as to defendants Rubinson, Feiffer, Chester and Reynolds?

MS. HARRIS: To the extent that the documents

were given in the context of that transaction --

THE COURT: Mobile Homes?

MS. HARRIS: That's correct.

And to the extent that your Honor has already ruled that this transaction is admissible against those defendants, yes.

Specifically, it is Mr. Chester against whom we offer it, Mr. Stack's testimony, because these conversations, as he has testified, were with Mr. Chester.

We would not offer his testimony against any other defendant other than those who might have been present or also spoke with the witness.

Have I not clarified it?

THE COURT: Suppose we withhold the offer until the testimony of this witness is completed.

Then you can renew the offer and see if we can admit these documents then based upon his testimony and see what his testimony is with respect to certain defendants.

MS. HARRIS: Your Honor, I think I can clear it up right now. We would offer the documents which the witness has testified Mr. Chester gave him. We would offer them against Mr. Chester only.

* * *

Q Did you have any other conversations with Mr. Chester about the trading aspects of the transaction?

A Only subsequent conversations along the same lines.

Q Would you tell us when?

A After the contract had been signed in late April there was a period of possibly three or four weeks, a hiatus period where Mr. Chester was curious to know what was holding up the next step at the time Mr. -- and his attitude and his questioning of me related to his desire to consummate the deal, get it going, and that he still offered to do whatever was necessary to get it started, including the contact with brokerage firms.

Q In the initial discussion about the trading aspects, did Mr. Chester describe what Mobile Home Ventures would do, or what was being done with respect to Stern-Haskell, if I am clear?

A Forgive me, but I am unclear as to your question.

Q Back to the initial discussion again about the trading aspects, did Mr. Chester simply describe what was being done in Stern-Haskell?

A Yes. He indicated that it was the same pattern of distribution of stock to National Ventures shareholders, and that it would eventually trade.

Q And did he describe what was being done with respect to Stern-Haskell with respect to the trading aspects of it?

A No, he did not.

Q Was there a conversation about who would handle the trading aspects?

MR. FISCHETTI: Your Honor, I object. She has asked this question I think in three different forms.

He said there was no discussion about the trading aspects. Obviously, if there were no discussions how can he be asked who would handle such trading aspects?

THE COURT: Is that so?

MS. HARRIS: I am asking if there were discussions about who would handle the trading aspects of Mobile Home Ventures.

MR. FISCHETTI: Of Mobile Homes?

MS. HARRIS: Yes.

MR. FISCHETTI: I withdraw it.

MR. CHESTER: I object.

He already said there was no mention of names of any brokers.

MS. HARRIS: I am asking who among the parties to the transaction would or could handle the trading aspects.

THE WITNESS: It was Mr. Chester's opinion that

he could interest brokers in New York in a [illegible] public company.

Q Did he offer to do that?

A Yes, he did.

* * *

* * *

THE COURT: The Mobile Homes evidence is being admitted, as I understand it, against four defendants, Rubinson, Chester, Reynolds and Feiffer. We had that in the beginning of the case.

MR. HIGGINS: Your Honor --

THE COURT: And only those four.

MR. HIGGINS: Your Honor, perhaps at this time it might be fair, your Honor, to in substance recharge the jury as to the limited value of this evidence.

They have not been so charged for more than several weeks, your Honor.

There has been testimony here about brokers, or whoever, unnamed people, who might be willing to take down large blocks of stock.

This type of conversation, your Honor, was not in furtherance of the conspiracy which is alleged as far as Stern-Haskell is concerned.

THE COURT: Yes, that's right.

MR. HIGGINS: There is a possibility of a prejudicial spill-over effect of such as to certain other defendants, your Honor.

THE COURT: All right. I will instruct the jury, as I have in the past, that the Government is offering

certain evidence as against four defendants, Chester, Rubinson, Reynolds and Feiffer, on the theory that these four defendants participated in a similar prior act to that charged in the indictment, and as I told you before, in considering this evidence you may consider this evidence when you consider the question of whether these particular defendants knew that they were selling securities or transporting securities in inter-state commerce which should have been registered.

In other words, this evidence goes to their knowledge and intent with respect to the claim, or charge, that they sold securities which should have been registered, and you consider the evidence when you are considering that issue as to these four defendants.

So the testimony of this witness, as you can gather, relates to the Mobile Homes transaction and the Diston Industries transaction, which the Government claims will prove similar transactions to the transactions charged here as far as those four defendants.

* * *

* * *

Did you want to say something, Mr. Rubinson?

MR. RUBINSON: Yes, ma'am. I just wanted to reiterate what Mr. Robson said on my behalf, that subject to connection in this Mobile Homes, there has been no testimony introduced about me as to a similar act in Mobile Homes.

THE COURT: All right. Thus far, is that so with respect to Mr. Rubinson and this testimony?

MS. HARRIS: With respect to this witness' testimony, that's correct, your Honor.

MR. RUBINSON: All previous testimony as to Mobile Homes.

THE COURT: Is that true with respect to previous testimony on Mobile Homes?

MR. CHESTER: Judge, maybe --

THE COURT: Suppose we resolve it as subject to connection later.

MR. RUBINSON: Your Honor, they were ready to make a decision and I think it was going to be in my favor.

THE COURT: I just ruled that it is subject to connection to you while they are thinking about it.

MR. CHESTER: Judge, if you look at page 56, Miami, February 12, 1970, this man states he knows none of these people.

THE COURT: Just a moment. That is cross examination. Save it for that.

All right. Are you ready to proceed now?

MS. HARRIS: One more thing with respect to the offer, your Honor.

In addition to the matters we already discussed, this particular testimony with respect to the trading in New York, of the Stern-Haskell stock and of the Mobile Home Ventures stock is being offered with respect to Mr. Chester's state of mind and the trading in New York, that is, the manipulation counts, in this indictment.

MR. CHESTER: Wait a minute. Bill Chester.

Objection to that. He has said there was no trading in Mobile Homes and you are trying to lead the jury to believe there was trading in Mobile Homes. He said it was aborted, no trading.

MS. HARRIS: What I mean is Mr. Chester's state of mind with respect to that issue.

THE COURT: With respect to the trading of what?

MS. HARRIS: Stern-Haskell in New York.

MR. CHESTER: You are losing me.

THE COURT: In other words, he should have known that that stock could not be traded because they were unregistered.

MS. HARRIS: No, your Honor. I refer to his knowledge of the manner in which the stock was being traded in New York and his connection --

MR. HIGGINS: Your Honor, I think this ought to be done out of the presence of the jury.

THE COURT: Let her finish.

And what?

MR. CHESTER: Who you talking about, Chester or Stack?

MS. HARRIS: It is being offered with respect to Mr. Chester's state of mind and knowledge of the way the stock was being traded.

MR. CHESTER: He said it had never been traded.

MS. HARRIS: Stern-Haskell stock was being traded.

MR. CHESTER: I think that's argument for the jury at the time we get through with all this, as to what our knowledge was.

MS. HARRIS: I am simply saying it is being

offered with respect to that issue.

MR. KEEGAN: Your Honor, Miss Harris keeps saying the way the stock was being traded in New York as if there is some particular way.

We have no evidence here about the way in which it was being traded, in quotes, whatever that may mean. I think we should discuss this out of the presence of the jury.

MR. CHESTER: It shows some evil connotation which isn't there.

THE COURT: As soon as we recess we will take that matter up and I will further charge the jury, if I think it is necessary, with respect to that issue and Mr. Chester.

All right.

Do you have some further questioning for this witness?

MS. HARRIS: Yes, I do. Could I have this marked Government's Exhibit 126 for identification.

xx (Government's Exhibit 126 marked for identification.)

BY MISS HARRIS:

Q Mr. Stack, I show you Government's Exhibit 126 for identification and ask you, just to yourself, to look through the document.

Do you know what these are? Just answer yes or no.

A I know what the top one is. These apparently are all letters indicating that --

Q Not yet.

But do you recognize the document?

A I recognize the top one. The rest may have been in the materials I acquired at the rescission in 1970.

Q Do you recognize any other document in there?

A Other than the top one? I will have to give you a qualified yes. I believe I have seen these before.

Q Do you recall where?

A I think they were in the package of materials that I received at the rescission.

Q Had you seen them before that?

A If I did, I don't recall, honestly.

Q With respect to the top document, what is it?

A This is a letter from Mr. Chester to Mr. Haun, indicating that --

Q No. Where did you see that document first?

A In Mr. Haun's office. It was supplied to him by Mr. Chester.

Q Did you read that letter in Mr. Haun's office at that time?

A I believe I did.

Q And have you read this letter now?

A Yes.

Q And is that a true copy of what you read at that time?

A I believe it is.

MS. HARRIS: Your Honor, I would offer what the witness has referred to as the top document in Government's Exhibit 126 for identification.

THE COURT: Is that against Mr. Chester only or others?

MS. HARRIS: That would be as against Mr. Chester, your Honor.

THE COURT: Any objection, Mr. Chester?

MR. CHESTER: I would like to see it. I would like to see the others too, if I could.

MR. HIGGINS: Your Honor, we were here at 9:30 to review this witness' exhibits. I made a point of being here to go over them.

THE COURT: It is not being offered against your client.

MR. HIGGINS: I don't recall the exhibits being here.

MS. HARRIS: I was here at 9:30 and saw Mr. Higgins

come into the courtroom.

THE COURT: Just show the top one now to Mr. Chester.

MS. HARRIS: Mr. Chester has seen --

MR. CHESTER: I have seen what she showed me. You didn't show me these this morning, did you?

MS. HARRIS: No, you did not see those.

THE COURT: Just a moment. She is only offering the top document. Have you any objection to it, Mr. Chester?

MR. CHESTER: No, ma'am.

MR. HIGGINS: Your Honor, Miss Harris did not --

THE COURT: Just a minute. You have an objection to this exhibit? Do you have an objection?

MR. HIGGINS: I object to the manner in which this exhibit has been presented through the witness, your Honor.

THE COURT: Mr. Higgins, I am about to receive this exhibit in evidence.

Do you have an objection?

MR. HIGGINS: Not at this time, your Honor. I would like the opportunity to make a statement later.

THE COURT: All right. Let 126 be received.

(Government's Exhibit 126 received in evidence.)

THE COURT: That is what again, Miss Harris?

xx

MS. HARRIS: This is a letter to Mr. Haun from Mr. Chester dated May 7, 1969.

THE COURT: Excuse me, Miss Harris. At this time we are going to recess until 2 o'clock for lunch. The jury is excused.

(Jury left the courtroom.)

THE COURT: The witness is excused until 2 o'clock for lunch.

THE WITNESS: Thank you.

(Witness left the courtroom.)

THE COURT: Do you have something, Mr. Higgins?

MR. HIGGINS: Yes, your Honor. I just would like to point out to your Honor at this time for the record, as Mr. Wohl had done yesterday, with respect to this particular exhibit, this witness testified to some six names of people who would take down large blocks of stock --

THE COURT: Will you give the names?

MR. HIGGINS: He couldn't remember the names, your Honor. He also testified as to some New York people who would handle the trading in the stock.

I submit, your Honor, that if Miss Harris properly felt that she had a foundation through which she could have got these other letters in then, it would have been proper to have them marked for identification. I

believe, your Honor, that Miss Harris improperly marked all the letters for identification, knowing that the witness would not be able to identify them, and puts before the jury, your Honor, the fact that you are going to have some unconnected up letters which identify certain people who were going to be taking down large blocks of stock as far as Mobile Ventures is concerned and it really, as a practical matter, permits inuendo and inference and suggestion to get to the jury as far as other people are concerned, even when this witness is offering his testimony only as to one defendant, Mr. Chester.

Now, as a practical matter, your Honor, I feel that that just isn't fair, fair play.

Can your Honor follow me?

THE COURT: No, I don't.

MS. HARRIS: Your Honor, I wonder if Mr. Higgins understands that Government's Exhibit 126 for identification, which has been admitted into evidence at this time, is a single letter. It has nothing to do with those documents. When he couldn't identify them I didn't offer them.

MR. KEEGAN: Miss Harris, if that has nothing to do with these documents --

THE COURT: Mr. Keegan, did I recognize you?

MR. KEEGAN: No, your Honor

MS. HARRIS: Furthermore, your Honor, the witness had never seen any of these documents before because I didn't find them until this morning.

I thought he might be able to recognize all of them. When I realized he could not I did not offer them.

MR. FISCHETTI: Right on this point, Judge, I think your Honor should understand one thing.

Your Honor has directed us, in order to expedite this trial, not to pass exhibits around between ourselves and to look --

THE COURT: I didn't say any such thing.

MR. FISCHETTI: I understood we were to look at the exhibits before the witness testified and we endeavored to do that.

THE COURT: As far as I know, you looked at exhibits all day yesterday as they came into evidence.

MR. FISCHETTI: That is the point I want to make to your Honor.

This morning Ms.Harris came to court at 9:30, as she stated, and she put on the table before Mr. Chester a stack of exhibits which she said she proposed, I assume, to introduce through this witness.

I came here at 9:30, after speaking to Ms.Harris last night, saying that these exhibits would be presented to us, the exhibits that are going to be introduced through this witness.

These letters were not among those exhibits.

Now, when she gets up and asks a witness to identify a document, Judge, I am under the assumption, I believe,

jh:mg 2

that these are documents that I had seen this morning. If she is going to pull other documents out that she has not shown ot me this morning, then I want to see every single document she gives to this witness and not have her or Mr. Wohl turn around and say, "You have seen these, they have been in our files."

She didn't show us these documents this morning.

THE COURT: Do you have a specific instance where that happened before?

MR.FISCHETTI: This morning. These letters were not shown to us, and I was here at 9:30.

THE COURT: Not this. Ms.Harris just said she didn't find these until this morning.

Do you have some specific instance--

MR. FISCHETTI: Would your Honor ask Ms. Harris if she gave those documents to us to examine this morning?

THE COURT: She admitted, I gather, that she did not.

MS. HARRIS: Your Honor, the one that is now in eividence was given.

THE COURT: Except to Mr. Chester?

MR. FISCHETTI: I looked at Mr. Chester's exhibits. It was given to no one.

MS. HARRIS: They were made available to all defense

jh:mg 3

counsel this morning. The letter which is in evidence at this time, 126 for identification, was with those documents this morning.

The rest of the letters were not because I didn't find them until after ten o'clock.

MR. FISCHETTI: While she was examining the witness.

THE COURT: What I was asking you--

MS. HARRIS: At the break.

THE COURT: -- Mr. Fischetti, whether this has happened before, that documents were presented to a witness that you had not seen or were not available to you before?

Has that happened?

MR. FISCHETTI: Yes, Judge, I believe it has happened on numerous occasions.

I didn't speak to it because of the great wealth of documents.

Mr. Wohl would turn around and say, "You know, we have given you this."

On one occasion -- your Honor may ask Mr. Schatz-- I did not receive an exhibit. Mr. Schatz said it was put in my folder. I never received it. It turned out there was a duplicate in somebody else's folder. So perhaps that has happened.

The point I am trying to make to your Honor is when she brings to the witness' attention six letters, Judge, that I don't know anything about, I must assume I have seen them and that they are not damaging, so I am not going to object to them, and she never showed them to us.

MS.HARRIS: Is it Mr. Fischetti's position that we should show him--

THE COURT: I think that in the past whenever an exhibit has been offered and Mr. Wohl has said it's been available nobody has really challenged that.

So what you are saying is we have an instance now for thefirst time where perhaps you didn't see some document.

Ms. Harris has explained that she found it after ten o'clock, after the time that it would have been available.

If there is nothing further--

MR. CHESTER: Your Honor--

MS.HARRIS: Your Honor, could I say one thing for the record? These documents as well have been in the drawers and available before today.

MR. CHESTER: Judge, may I say something? This is Bill Chester.

It is my opinion that the state with this witness

is only to Mr. Chester, which I admit to. If they will read-- and they have got these depositions because they gave it to us-- it says:

"Q Do you know Albert Feiffer?

"A No.

"Q Do you know Saul Weitzman?

"A No.

"Q Do you know Norman Rubinson?

"A No.

"Q Do you know Sidney Stein?

"A No.

"Q Do you know Lockwood?

"A No.

"Q Do you know Gardner?

"A No.

"Q Do you know Leo Silber?

"A No.

"Q Do you know Harry Silber?

"A No."

Now, they are in bad faith trying to say they are going to connect up these other defendants with this man when they have had this since 1970.

They know this man has never heard of any of these other defendants and they are letting this jury

jh:mg 6

believe that they are going to connect up somehow the rest of these defendants, when right here, unequivocally, he says no, he doesn't know any of the rest of these people, except Ed Reynolds.

Now, that is bad faith, and that's been bad faith since 1970, and you know it.

Now, my other motion, I have asked from Schatz here-- last week Bob Schatz and I went up to go through those files. Mr.Stack sent up a letter where he listed everything he sent to Mr. Wohl.

It is very important to my case, because Mr. Stack has originated three pieces of paper which I don't have, press releases on Mobile Home Ventures which he made out himself, financial statements he made out himself. It is three of them. I don't have them. I have got to have them before I cross-examine.

THE COURT: Are those in evidence?

MR. CHESTER: They haven't given me copies, and this is my whole case. This is why this thing was aborted, because they didn't put these companies -- they only put two out of eight companies in. These are financial statements and I sued, Bill Chester himself sued Mobile Homes because somebody bought some stock for $15,000 and they gave the money back because of this false information.

jh:mg 7

Bosh Stack prepared these things. He denies it. I want him to deny it because Haun is going to be here tomorrow.

But I don't have them. I have asked for them a week ago. I can ask and ask and all they do is give me what they want to give me.

I have been looking. I finally got this today. Bosh Stack when I first met him said he was a financial consultant, he was going to make the market.

Now today he says-- this is cross-examination-- he says he is a public relations man.

I finally got a letter today to a trading house in New York from him saying what he is going to do for Mobile Homes.

THE COURT: Just a moment. Is that a document you say you sought from the Government previously?

MR. CHESTER: Yes.

THE COURT: They have some others that you want?

MR. CHESTER: Yes.

THE COURT: Name them one by one, and slowly. Which ones do you say you want that the Government has?

MR. CHESTER: I need the financial statements which they have, which went out with the stock certificate on Mobile Home Ventures, Inc.

THE COURT: Do you have that, Ms. Harris?

MS. HARRIS: I am certain that we do. If it went out in a mailing to National Ventures shareholders it is probably in evidence.

MR. CHESTER: I have never seen them.

THE COURT: What else did you want?

MR. CHESTER: That's all I want, the financial statements and the press release.

THE COURT: She agrees to give it to you.

What else do you want?

MR. CHESTER: That's all I need.

THE COURT: Mr. Rubinson, do you have something?

MR. RUBINSON: Yes, Ma'am.

I will be very short. I would like to make an application for the protection of the Court based on what Mr. Chester just said about not knowing me and that the Government knows this, but they are led to believe that there are four names and then six names mentioning my name that I have some interest in this company.

Now, that's going to stay with the jury even thought it is subject to connection.

I request the Court to charge the jury now and tell them to eliminate the four names in their mind, because there will be no connection and there is no connection, not

to leave them that it will be subject to connection, because the jury-- it is very difficult to comprehend subject to connection.

So I ask that the Court protect me and charge the jury that way.

7aam md:mg 1

MR. WOHL: Your Honor, just one point.

THE COURT: Do you have an application, Mr. Andrews?

MR.ANDREWS: Yes.

THE COURT: What is it?

MR. ANDREWS: I respectfully request at this time a severance of my clients Wax and Levine from this case.

It is apparent the Government is going to spend at leat two says of valuable trial time inquiring into matter that is wholly collateral to the charges against my clients.

Mr. Wax and Mr.Levine do not appear anywhere in any of these transactions. The Government has said they will ffer evidence about unrelated collateral matters to show state of mind with respect to I suppose Mr. Chester.

At this point it has reached the heights of absurdity that we are going to spend two days, in which you can try an ordinary case, inquiring into a collateral matter and the prejudice to my clients is so overwhelming,I request a severance.

THE COURT: What do you say, Mr. Wohl?

MR. WOHL: If I can deal with these points in order, first of all, this document that Mr. Chester is asking for I believe is Government Exhibit 6B in evidence.

THE COURT: Is that the financial statement?

md:mg 2

MR.WOHL: That is the financial statement of the Keystone Credit Investment Corporation and Keystone Credit Corporation, which later became Mobile Home Ventures, Inc.

THE COURT: So that takes care of that.

MR. CHESTER: What about the press release?

MR. WOHL: Now he wants the press release. That is not in evidence. We will provide it to him. I believe it's been in the drawers of discovery material he had access to and went through last week, and he has had access even long before last week, but we will provide him another copy now.

MR. CHESTER: Fine.

MR. WOHL: With respect to the problem of connecting up the Mobile Home Ventures transaction with defendants other than Chester, it is certainly not the Government's position that it has to be connected up through the very same witness who is giving the testimony about it.

The question is whether the Government will connect this up to those defendants through any other evidence.

We would submit that we have already put in substantial evidence connecting it up, because of the fact that we have established that Mr. Rubinson and Mr. Feiffer were owners, very large owners, of Mobile Home Ventures -- excuse me, of National Ventures stock.

md:mg 3

Now Feiffer--

THE COURT: In other words, you are going to connect it up?

MR. WOHL: Yes.

MR.RUBINSON: That is a false statement.

I don't show on National Ventures. That is a false statement he made.

THE COURT: Mr. Rubinson, you had an opportunity to speak.

MR.RUBINSON: I didn't know he was going to make a false statement. I will show you the chart that shows I am not on it, so how can he say I am a large holder of stock? He knows it, and he told me so, so why is he saying something else here?

THE COURT: The long and short of it is he says he is going to connect it up and he can't do it all at once, so please do not speak further.

The second point made by Mr. Andrews is that this is apt to consume two days of trial, this Mobile Home matter,and I gather Diston Industries.

Is that it?

MR. WOHL: That is what Mr. Andrews claims, your Honor. I think if we can just put it in, I don't think it will take that kind of time at all. I think that this

jmd:mq 4

is important proof relating to Mr. Chester's state of knowledge, and also the knowledge of other defendants.

I don't think it is going to take any two days of proof.

THE COURT: How many witnesses do you have on it?

MR. WOHL: Three witnesses on the Mobile Home matter and one on the Diston Industries matter.

One of the wintesses, the other two witnesses on the Mobile Homes matter I would anticipate would be very short witnesses.

One of them just to identify some of the documents that it turns out Mr. Stack was unable to identify.

THE COURT: I would agree with Mr. Andrews that we ought to try to cut it down because it is a collateral matter.

MR. WOHL: We are trying to do that, your Honor.

MR. ANDREWS: I would suggest to the Court we may be able to stipulate that some of the defendants-- I can't speak for them, but there doesn't seem to be any question about some of these matters. I don't think they have to prove every element.

MR. RUBINSON: I disagree.

MR. ANDREWS: I speak only as an officer of the court making a suggestion.

md:mg 5

THE COURT: To dispose of your motion for a severance, that is denied.

If it appears that the evidence is overwhelming, and that it consumers a large portion of the trial, you can renew the motion.

MR. ANDREWS: Thank you, your Honor.

MR.RUBINSON: I would like to see these witnesses.

THE COURT: Mr. Rubinson, I am not going to hear you further.

We are going to recess until two o'clock for lunch.

(Luncheon recess: Adjourned to 2:00 p.m.)

* * *

CROSS EXAMINATION

BY MR. RUBINSON:

Q Mr. Stack, you said that you had many meetings at Mr. Chester's office in Miami, is that true?

A I said I possibly had a half a dozen, yes.

Q Was I at any of those meetings, Mr. Stack?

A No.

Q At Mr. Haun's office for Mobile Home Ventures in Fort Lauderdale you said you had many meetings, is that true?

A Yes.

Q Was I at that meeting?

A No.

Q Then you had a rescission meeting, you said?

A Yes.

Q Was I at that meeting?

A No.

Q Did you ever see a stockholder's list of National Ventures?

A Yes.

Q Do you recognize my name as being a stockholder of National Ventures?

A No, I don't.

Q You also stated that you spoke to Mr. Chester many times about this Mobile Home Ventures, Stern-Haskell and Diston.

Did Mr. Chester ever mention my name to you?

A No, he did not.

Q In all the conversations you had with Mr. Chester as to the price of Stern-Haskell or Diston or Mobile Home Ventures, did he ever mention my name?

A No, he did not.

Q Do you know me?

A No, I don't.

Q Did you ever hear my name before?

A No, I did not, although your name is on my subpoena.

Q My name is on your subpoena?

A Yes.

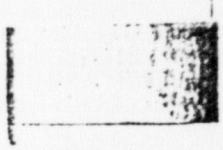
Q Isn't it true that my name is on all the subpoenas in this case?

A That I wouldn't know. That is where I saw your name before.

Q But you never heard of me before?

A No, I did not.

MR. RUBINSON: Thank you.



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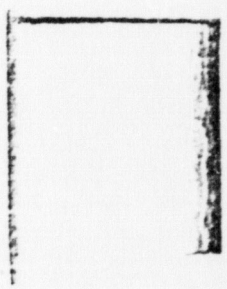

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CROSS-EXAMINATION

BY MR. ANDREWS:

Q Mr. Stack, my name is Tom Andrews.

I represent Larry Levine and Walter Wax.

MR. WOHL: Excuse me, your Honor. Since this witness' testimony is not being offered against Messrs. Levine and Wax I don't quite understand why Mr. Andrews would be cross-examining him.

MR. ANDREWS: If theprosecutor wishes to have the witness recant his testimony about paying brokers, I have no need to cross-examine him.

But there must have been some reason why they

they elicited that remark from him.

MR. WOHL: It went to Mr. Chester's state of mind and knowledge. If Mr. Andrews feels --

MR. ANDREWS: If the prosecutor wishes to warrant to the jury that Mr. Wax and Mr.Levine are not going to be charged--

THE COURT: Just a moment now. The prosecutor's statement is that the testimony of this witness has been offered solely against Mr. Chester and possibly connected to the other four defendants, that is, Rubinson, Feiffer and Reynolds, if it can be connected later on? It is not offered against your client.

MR. ANDREWS: We are to assume --

THE COURT: It is not offered against your client.

MR. ANDREWS: The jury is not entitled to make an inference that the statement was true? That is my only question, your Honor. If that is so, then I will sit down, I have no questions.

THE COURT: All right.

MR. ANDREWS: Thank you.

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DIRECT EXAMINATION

BY MR. WOHL:

Q Mr. White, what is your profession?

A I am an attorney.

THE COURT: Excuse me just a moment, please.

(Pause)

THE COURT: Excuse me.

You may go on.

Q Were you a practicing attorney during 1969?

A Yes, I was.

Q Where were you practicing?

A In Washington, D. C.

Q With a law firm?

A Yes.

Q What was the name of the firm?

A Gainsberg & Feldman.

Q Did you specialize at that time in any particular area of law?

A Corporate law and securities law within that field.

Q Mr. White, I show you Government Exhibit No. 120 in evidence, which is a letter purportedly from yourself to Mr. William Chester with respect to Mobile Home Ventures, and I ask you if you recognize that letter.

A Yes, I do.

Q Do you recognize the signature?

A Yes, I do.

Q And do you recognize the letterhead?

A Yes, I do.

Q Do you recognize the text of the letter itself?

A Yes.

Q Is that a letter that you wrote to Mr.William K. Chester?

A Yes.

Q In connection with that letter did you have any conversations with Mr. Chester?

A I know I had one conversation with him, at least one, when I told him that the area of law of spinning off companies, where you would have theoretically no sale, so there would not be a requirement for a prospectus, was very much in doubt and that in my opinion it would be very

difficult to render a legal opinion that what he contemplated having his client do would be permissible.

That's the only conversation I recall.

And I recall telling him that "I don't think really basically I can give you an opinion," and as a result of that conversation, where he said it would be helpful even though the opinion was largely in the negative, it would be helpful still to have the opinion, that I wrote this letter.

Q When you said that you did not think you could give him an opinion, what did you mean by that in that conversation?

A Well, the area--

MR. ROBSON: If your Honor please, I object to what the witness meant. All he is entitled to testify to is what he said.

THE COURT: Overruled.

MR. CHESTER: Judge, this is Bill Chester here.

I object because he says he can't give me a letter when he did give me a letter. It looks like the letter speaks for itself. I don't think he should interpret it.

I think the jury should interpret the letter.

MR. WOHL: I will withdraw that question, your Honor.

MR. CHESTER: One other thing.

May I ask, Judge, please, may he state when and where this conversation was held?

Again, the Government, they just keep saying spew out conversations. I would like to know when and where.

THE COURT: Yes.

Q When did this conversation occur, if you recall, Mr. White?

A The letter is dated May 16, 1969 and at the bottom of the first page of the letter I stated to him, "As I told you orally,the law on this subject at the moment is uncertain."

MR. CHESTER: Judge, I object. He has already testified to this. He is just repeating.

THE WITNESS: I am just answering the question.

A It had to be some time prior to May 16, 1969.

Q Do you recall how long prior to May 16, 1969?

A No, I don't.

Q Do you know whether it was a matter of weeks or months?

A Well, in theordinary course of events, it had to be within days or weeks before May 16, 1969.

Q Can you recall any other things of substance that Mr.Chester said to you in that conversation or that you

said to him?

A No, I can't.

Q Can you tell us whether or not Mr. Chester told you in this conversation that when Mobile Home Ventures' stock was sold--

MR. CHESTER: Judge, I object. This is an attorney, a professional man. He is leading him.

Let him testify what happened if he remembers. All he is doing, as he has done for four weeks now, is testifying, and then the man says yes or no.

This is a professional man who writes hetters for real money.

THE COURT: You have made your objection. Can I rule on it?

MR. CHESTER: I wish you would.

MR. WOHL: Your Honor, may I explain what I am about to do here? I think it will save time.

I am about to ask the witness whether Mr. Chester told him four or five specific things which the other evidence has indicated was part of the transactions of National Ventures here. Whether or not Mr. Chester in seeking a legal opinion made full disclosure to the attorney is an important issue.

THE COURT: Yes. Overruled.

MR. CHESTER: But Judge--

THE COURT: Mr. Chester, your objection has been overruled. Please don't make any remarks again as you go along.

MR. ROBSON: Your Honor, may I on behalf of Mr. Feiffer object to this testimony, unless it is Mr. Wohl's intention to offer this only as to Mr. Chester to show his state of mind?

MR. WOHL: I am only offering it as to Mr. Chester.

THE COURT: All right.

Q In this conversation did Mr. Chester tell you that when the Mobile Home Ventures stock was sold to National Ventures that--

MR. CHESTER: Judge, Bill Chester here.

I want to object on the grounds that this is an attorney-client relationship and he has no right to say what I told him or what he told me.

I paid this man good money for an opinion. The opinion speaks for itself. I am now at this time objecting on the attorney-client relationship. I paid him. I was his client. He was my attorney.

He and I have nothing to do criminally together at all.

MR. WOHL: Your Honor, Mr. Chester has from the

outset raised or attempted to raise some form of good faith or advice-of-counsel type defense.

THE COURT: Yes. Overruled.

Q During this discussion concerning Mobile Home Ventures, Mr. White, did Mr. Chester tell you that at the time that National Ventures was purporting or going to buy stock of Mobile Home Ventures that the two corporations, National Ventures and Mobile Home Ventures, would simultaneously exchange checks for $2,000, one check from National Ventures to Mobile Home Ventures for $2000, another check from Mobile Home Ventures back to Mr. Chester for $2000?

A If he did, I don't recall.

MR. CHESTER: Judge, again, Bill Chester.

I want to make this perfectly clear, because this is a very serious case,as you know. This is my lawyer and I never alluded to any discussions that he and I have ever had. I don't even have to take the stand. His letter the Court introduced into evidence which the jury can read for themselves. Other people have read it, other people have made their opinions. The jury ultimately will make a decision.

If he starts talking on what he and I said, and I never said he said anything, he is subject to the biggest lawsuit he has ever hads, because he is my lawyer and he

has no right to get up here and start saying things when he wrote in a letter exactly what happened.

Let the jury decide itself.

Everything he is saying, every yes or no answer he wants, he won't just ask him, "Will you say what your conversation was?" He goes through and says, "Well, Mr. Chester said this" --

THE COURT: Mr. Chester, the law is that you cannot rely upon advice of counsel in a criminal case of this kind and then when the Government seeks to find out whether you relied on it and to what extent, have the Court block it.

So your objection is overruled.

Proceed, Mr. Wohl.

MR. KEEGAN: I would like to state an objection.

THE WITNESS: Your Honor, if I could, I would like to make a statement, because I raised the same question with the United States Attorney's Office about testifying as a lawyer when there was the attorney-client privilege,and as a result of Mr. Chester being a defendant, and I at this time was his lawyer, I felt he had the right to object to it at the time, but since you made the ruling you did, I feel that the attorney-client privilege is waived for the purpose of this proceeding.

THE COURT: Yes, because he has raised it as a

defense in this case.

Do you want to make an objection in behalf of Mr. Chester?

MR. KEEGAN: No, your Honor, it is on behalf of Mr. Reynolds.

I noticed that the witness answered the first question put to him, "Did Mr. Reynolds mention such and such?" "No, I do not recall."

Before we get a series of questions which are in the form "Do you recall Mr. Chester saying so and so?" "No, I do not recall"; I would like a good faith offer from Mr. Wohl that he knows that the answer is going to be "yes" to some of these questions.

Otherwise he is giving the jury the impression that Chester did not say these things when in fact all the witness --

THE COURT: You said Reynolds in the beginning. So we are all confused.

MR.KEEGAN: Your Honor, Mr. Reynolds is on trial here. We have been through this before.

THE COURT: You said that the question was "Did Mr. Reynolds say?" --

MR.KEEGAN: I'm sorry. My objection is that we are going to get a series of questions in the form, "Did

Mr. Chester say thus and so," which are responded to by an answer "No, I do not recall him saying that."

I submit that that is giving the jury the impression that Chester did not in fact say those things. When the answer is "I do not recall," that is no evidence of anything.

I want a good faith offer from Mr. Wohl that we will actually get some evidence from Mr. White and not a series of answers "I do not recall whether he said that or not."

THE COURT: Overruled.

MR. CHESTER: Bill Chester again.

I never put his letter into evidence as my own. Haun used Mr. White's letter to determine whether or not Mobile Homes should be spun out, not Mr. Chester.

I am waiving nothing. I f the Attorney General told him that we do have an attorney-client relationship he is subjecting himself to civil suit.

I did not put his letter in, his verification of what my opinion was. Haun relied on that on the Mobile Homes. Haun did, not Chester. Haun is not a defendant here.

THE COURT: Would you proceed, Mr. Wohl?

BY MR. WOHL:

Q During the course of your discussion with Mr.Chester

did he tell you that the parent company in this proposed spin-off, National Ventures, had almost no assets and that its primary asset was a piece of land, as to which the company did not have clear title?

A No.

Q Did Mr. Chester in this conversation tell you that many of the stockholders of the parent company, National Ventures, were stockholders only by virtue of the fact that they had received a very small number of shares as gifts to them?

A No, he did not.

MR. CHESTER: Bill Chester.

Again I object. He is summing up to the jury what he thinks the evidence has adduced and this is the most unfair thing I have ever heard of. All he is doing is poll-parroting, saying yes, no, yes, no, to what he thinks the evidence is. He is not the jury.

THE COURT: Overruled.

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CROSS-EXAMINATION

BY MR. RUBINSON:

Q Hello, Mr. White.

A How do you do.

Q Do you know who I am? Did you ever speak to Norman Rubinson?

A Yes, I did. If you are Norman Rubinson.

Q That is correct.

Did I ever speak to you about a company called National Ventures, the one that we are talking about here?

A I think so.

Q You think so? Would you tell me when?

A From this letter, I would say it would be 1969.

Q In what context did you speak to me about National Ventures?

A I don't recall.

Q Maybe I can refresh your memory.

We had our business, you and I, prior to 1969, when you asked for freeing up of stock in Allan Electronics Industries in 1968.

MR. WOHL: I object. We have been into this Allan Electronics thing before.

THE COURT: Yes. That is beyond the scope of the witness' direct examination. You can't go into that.

You can ask him about National Ventures.

MR. RUBINSON: I want to refresh his memory. The contact that we had was not about this case.

THE COURT: You can show him that and ask him if that refreshes his recollection as to when he first met you, but that's all. Don't ask him about it.

MR. RUBINSON: I won't ask him. I just want to show him the letters and the dates.

MR. WOHL: Your Honor, we didn't even offer Mr. White's testimony against Mr. Rubinson at all.

MR. RUBINSON: I just want to prove that I never spoke to this gentleman about anything in this case.

This is something else that he knows me from, never met me.

THE COURT: The Government didnot claim that he spoke to you.

MR. RUBINSON: I want to make it clear to the jury.

THE COURT: Even though the Government does not claim it?

MR. RUBINSON: I don't know, your Honor. Everybody seems to know me and I am finally getting a few people that don't know me and I want the jury to see that.

THE COURT: We are not proceeding here to play games.

MR. RUBINSON: This is not a game. I am trying my best, your Honor.

THE COURT: The Government doesn't claim that this man knows you.

You can hand him back those papers, Mr. Witness.

Unles you have some question relating to hi direct examination, Mr. Rubinson, you may sit down.

MR. RUBINSON: Are you saying that the Government does not claim that he knows me in this case at all, National Ventures, Stern-Haskell or Diston?

Is that true, Mr. Wohl?

MR. WOHL: That is correct.

MR. RUBINSON: Thank you.

Then I will sit down.

* * *

* * *

REDIRECT EXAMINATION

BY MR. WOHL:

Q Mr. White, how can you recall that Mr. Chester did not tell you the things that I asked you about in the direct

examination?

MR. KEEGAN: Objection.

MR. ANDREWS: Objection. It calls for a state of mind.

MR. KEEGAN: It calls for the operation of the witness' mind.

MR. WOHL: That is exactly what was gone into by Mr. Chester.

MR. ANDREWS: What he recalled was gone into by Mr. Chester, not why he recalled.

MR. HIGGINS: I move to strike Mr. Wohl's comment.

THE COURT: What comment are you talking about, the question?

MR. HIGGINS: Characterizing the cross-examination of Mr. Chester, your Honor.

THE COURT: I didn't hear it. I thought you said that was what was gone into by Mr. Chester.

MR. WOHL: That's what I think I said, yes.

MR. CHESTER: The only thing I wanted to do, he doesn't remember any clients for five years except me.

THE COURT: The objection is overruled.

Proceed.

A I would like to have the question reread. I'm sorry.

THE COURT: Please read the question, Mr. Reporter.

(Question read)

A Because I -- if I had known those facts I wouldn't have written the opinion.

MR. WOHL: No further questions.

MR. ANDREWS: Now I do have cross-examination.

MR. CHESTER: Judge, again I object to him-- you see, he has replaced the jury.

THE COURT: The witness may come down. You are excused.

MR. ANDREWS: Your Honor, may I have recross?

MR. FISCHETTI: We are entitled to recross.

MR. ANDREWS: I have not had an opportunity to recross.

MR. CHESTER: I have a right to recross him.

THE COURT: The record is clear.

The witness is excused.

MR. ANDREWS: May I ask him if he has never made a mistake in his career, your Honor?

THE COURT: The witness is excused.

(Witness excused)

MR. HIGGINS: May I be heard just for the purposes of the record?

THE COURT: Yes, you can.

MR. HIGGINS: So I can put statement on the record.

THE COURT: Yes.

MR. HIGGINS: Mr. Wohl has just now, your Honor, attempted to do what Mr. Keegan and Mr. Chester were precluded from doing, your Honor.

THE COURT: All right.

If you are going to make a speech we will excuse the jury until tomorrow morning at ten o'clock.

(Jury left the courtroom)

(In open court, jury not present)

MR. HIGGINS: Your Honor, at this time I renew my objection to the admission of prior or contemporaneous similar act evidence against my client, Mr. Gardner.

I point your Honor's attention to the memorandum of law that we submitted on this early in the trial.

Again we point out the fact that courts have in the past indicated that there can be at a joint trial prejudicial spillover effect against co-defendants from similar act evidence admitted against a defendant at a joint trial.

This is exactly what's taken place here, your Honor. There has been extensive testimony on Mobile Home Ventures that's being offered only against Mr. Chester, in which Mr. Chester allegedly has stated to one or more witnesses thathe had brokers in New York who could park or take

control of large blocks of stock and as a result of them so doing the market price would go up and, your Honor, I was faced with the decision of whether or not to cross-examine such a witness and thereby highlight the possibility in the eyes of the jury that these unnamed brokers in New York, one of them may be my client, or, your Honor, say nothing and hope against hope that possibly the jury might understand your Honor's limiting instruction and that they should in no way speculate or even possibly consider that my client might be one of these New York brokers who would control a large block of stock.

Now, again for those reasons I respectfully request a severance at this trial.

THE COURT: All right. That motion is denied.

Do you have a motion, Mr. Andrews?

MR. ANDREWS: Yes, your Honor.

Like Mr.Higgins, I faced the same problem with respect to Messrs. Wax and Levine, but unlike Mr.Higgins, I decided to handle it in a manner different from him. I decided to cross-examine because I concluded in my own mind that there is no way that these jurors can put out of their minds the obvious inference that the defendants on trial who are brokers in New York were the ones that Mr. Chester allegedly referred to in his statement to this

witness who testified in the courtroom, or the alleged statement.

I got up to cross-examine and I was denied my right to confront that witness.

Now, the prejudice is so overwhelming --

THE COURT: Are you making a motion? If so, make it.

MR. ANDREWS: Yes.

My motion is for a mistrial.

THE COURT: Denied.

We will recess to ten o'clock tomorrow morning.

MR. KEEGAN: May I speak to the Court?

I know the Court doesn't want to listen.

THE COURT: Do you want to make a motion? I don't want to hear any speeches. If you are going to lecture me, I am not going to hear it. If you have a motion, make it.

MR.KEEGAN: I am not going to lecture you.

THE COURT: I am sick and tired of the lawyers in this case lecturing me from morning to night. So if you are up to make a speech and looking to lecture me, I will not listen.

MR. KEEGAN: The record will reveal what it will reveal.

THE COURT: It will.

MR. KEEGAN: My motion is for a mistrial on behalf of Mr. Reynolds because the Court refused to allow recross because Mr. Wohl got up and got a legal opinion from Mr. White -- had he known these facts, he would not have written the letter.

The Court did not permit recross at all.

Furthermore, it is on the grounds the Court has unduly limited cross-examination in the area of expert opinion. I don't think we can get a fair trial in this court.

THE COURT: Your motion for a mistrial is denied.

Do you have a motion?

MR. CHESTER: Bill Chester adopts the same motion that Mr. Keegan made, in the same language.

THE COURT: All right.

Denied.

MR. ANDREWS: I join that as well. I wish to cross-examine that lawyer who just got off the stand.

MR. FISCHETTI: I do, also, your Honor, on behalf of my client.

MR.HIGGINS: As do I, your Honor.

(Adjourned to Friday, February 21, 1975, at 10:00 o'clock a.m.)

* * *

CROSS-EXAMINATION

BY MR. ANDREWS:

Q My name is Tom Andrews and I represent Walter Wax and Larry Levine.

Do you know those fellows?

A I don't think I do.

Q Those two gentlemen sitting right here (indicating).

Do you know them?

A I don't think I do.

Q You are the president and sole owner of Prudential Investment Corporation?

A I was.

Q You were? Have you sold that company?

A No, we have closed, four years ago.

Q I'm sorry to hear that. You are out of business now?

A Right.

Q YOu closed in 19--

A 1971.

Q That is just at the end of the boom market, is that correct?

A Right.

Q That market ended about 1970, didn't it?

A Right.

Q Reached its height about 1969?

MR. WOHL: Objection, your Honor. This is clearly beyond the scope -

THE COURT: Yes. I don't know how the witness is able to tell us all this.

MR. ANDREWS: I would like a little of the history of his company, your Honor, and how it related to how the market fared over those years.

MR. WOHL: Objection. It is beyond the scope and the witness may or may not know about that, but if Mr. Andrews wants to bring that out, he has to make Mr. Torelli his witness and bring it out through non-leading questions.

THE COURT: Yes.

Q Was there any relationship between the termination of your business and the fall in the market in 1970?

A Well, I think they were related, yes.

Q They were related?

A I think so.

MR. WOHL: Objection. That calls for a conclusion on the witness' part.

THE COURT: Absolutely.

MR. WOHL: I ask it be stricken.

THE COURT: Yes, that answer is stricken, and the

question also.

Q Would you describe your brokerage firm, what kind of house it was, was it a trading house?

A We did an active trading business, yes.

Q You had good over-the-counter trading business?

A Yes.

Q You as president and sole owner of the corporation, did you engage yourself in any of the trading?

A No.

Q How did you accomplish the trading?

A We had a trader -- at one time we had three. We had a pretty competent trader.

Q Did you yourself make any decisions with respect to the trading?

A Very few.

Q You left that pretty much up to your trader?

A Yes. That was a highly skilled job.

Q Did you yourself know anything about trading?

A Not too much.

Q You were by no means an expert, is that right?

A I knew a little about it but I was no expert.

Q You relied totally on your trader?

A Right.

Q Who was it who made decisions with respect to trading, for example, what stock your house would make a market in?

A The trader.

Q Would you tell me about the physical set up, lay-out, of your corporation?

THE COURT: The physical layout?

MR. ANDREWS: Yes, your Honor.

THE COURT: I don't understand the relevance.

MR. ANDREWS: I would like to inquire how it was

that Jerry Becker, also known as Sten Nordin, was able to do some of the things he did and I wonder if it has any relation to the physical layout of this corporation and the way the responsibilities were parceled out and I assure you it won't take me more than a few questions.

THE COURT: Has it been established that Sten Nordin is also known as Jerry Becker?

MR. WOHL: Yes, your Honor.

Q For example, sir, how many floors of space did you have?

A Two-story building.

Q You occupied a two-story building?

A Yes.

Q Where did you spend most of your time as president and sole owner of the corporation?

A I was downstairs, close to the back office.

Q That is where you took care of the records of the company?

A That's right.

Q Transferred stock?

A Yes.

Q Moved it around. The back office is distinguished from the trading room?

A Yes.

Q Was that in another part of the building?

A The trading room was upstairs and the registered reps were upstairs.

Q And you were on the first floor?

A That's right.

Q After you received these various opinions of counsel regarding the propriety and legality of trading spun off stock, did you in fact trade spun off stock?

MR. WOHL: Objection.

THE COURT: Sustained.

MR. ANDREWS: I just want to know what he did after he received them, your Honor.

MR. WOHL: The Government objects on the ground that, first of all, whether he traded these other spin off stocks, whatever that vague term means, doesn't make any difference in this particular case.

THE COURT: Objection sustained.

MR. ANDREWS: May I be heard on that point, your Honor?

THE COURT: The objection is sustained.

MR. ANDREWS: I have not had an opportunity to be heard and I hate to press it, but I would like to be heard.

THE COURT: We have been through this several times. It is not a new proposition you are pushing. I have

ruled on it before.

Q Sir, you have shown us, have you not, stock certificates delivered to your firm by Jerry Becker which you traded for Jerry Becker, is that so?

A I believe his name was one of them, yes -- that we sold for Jerry Becker, we did trade them -- on an agency basis.

Q As a customer, he came to you and you executed a trade for him, a sale?

A We executed a sale for him.

MR. ANDREWS: May I have those certificates, please?

(Pause.)

Q I show you these stock certificates and they bear exhibits numbers 55T, D, E, A, B and C, and I show you confirmations, 162A, B, C, D, and I show you as well, stock certificates bearing number 55F, G, H and I and I ask you if those are not, first of all, the certificates that Jerry Becker delivered to you with orders that you sell them as agent for him?

A If they are the same ones we had earlier, yes, they are.

Q Can you tell by looking at the confirmations whether or not those are the certificates?

A Well, I can. It will take a few minutes.

Q Will you just take a moment and do that, please.

A Yes.

(Pause.)

A That's right.

Q All of those certificates are in the name of Lockwood and Company.

A Yes.

Q And they are endorsed Ben Malmeth for Lockwood and Company with the signature guaranteed by a bank, are they not?

A That's right.

Q You have shown us the stock certificates, you have shown us the confirmations of sale you mailed to Mr. Becker, will you show us the proof of ownership documents that you took from Mr. Becker accompanying those stock certificates?

A We don't have to have a proof of ownership document.

Q You took stock certificates in the name of Lockwood & Company, endorsed by Lockwood & Company, from a person off the street without proof of ownership?

A He was registered with us, had an account there, and there would be no question to check that, there would

be no reason to check it.

Q Can you answer yes or no: You took certificates in the name of Lockwood & Company, endorsed by Lockwood & Company from a person off the street?

A I would have to answer yes, but I think it is an unfair question.

Q The answer is yes.

A Yes, but it is an unfair question.

Q Will you follow me with this, please:

If Jerry Becker turned out to be a thief with an alias, Jerry Becker, and he wasn't really Jerry Becker, but a thief who had stolen the securities, you would have taken no steps to protect yourselves against him by not requiring proof of ownership?

MR. WOHL: Objection. That is a pretty hypothetical question.

MR. ANDREWS: It is in fact reality and not hypothetical --

MR. WOHL: There is no proof, your Honor, that Mr. Nordin stole the stock certificates, so far as I can see.

In fact, there is testimony as to how he obtained the stock certificates and, consequently, I submit that it is an improper question and objectionable on that ground.

MR. ANDREWS: I believe, your Honor, the testimony of Jerry Becker was that he sold -- I mean Sten Nordin, two or 300 shares in the name of Jerry Becker. We have $4,000 in the name of Jerry Becker and either he did not tell the truth on the stand or he stole them.

THE COURT: I don't follow this at all. There is no evidence that Sten Nordin stole them. Mr. Wohl contends that he explained how he came into possession of them.

MR. WOHL: That's correct, your Honor.

MR. ANDREWS: He explained he came into possession of two or 300 shares and we find through this account alone some $4,000 worth of stock was sold, at least twice the amount that Nordin told us about under oath. I want to find out if there was any proof of ownership submitted by this person using an alias, an assumed identity.

THE COURT: Well, the witness has testified that no proof of ownership was required. Is that your testimony?

A Yes. It is also quite possible that he may have shown proof of ownership to the registered representative.

Q How many years have you been in the securities business, sir?

A Since 1959, '60.

Q I am not trying to embarrass you or impeach you

or anything, I am just trying to get at the truth.

Since 1959.

A And '60, yes.

Q That is a good ten years in the business, is that correct?

A Right.

Q Isn't it a matter of fact, based on your experience in the business and as owner of a brokerage firm, that you were entitled to take certificates endorsed in street name without proof of ownership only from another broker? Isn't that so -- on delivery from another broker?

MR. WOHL: I object to this, if Mr. Andrews is seeking to put into evidence some rule of law.

MR. ANDREWS: It is practice in the industry, your Honor.

MR. WOHL: Then that should be the practice, what this witness' normal and customary practice was on that subject.

THE COURT: Well, it was phrased that way. He asked whether it was his experience, is that it?

MR. ANDREWS: Yes, your Honor.

THE COURT: Is that your experience in the industry?

THE WITNESS: It would be up to the representa-

tive that handled the customer to make sure that the stock certificates are valid.

Q If a person by the name of Jerry Becker came into your firm with certificates in the street name of a broker, endorsed by that broker, and if this fellow Becker had no proof of ownership, proof of his right to possess those stocks and you took them and they turned out to be stolen, then you would be responsible, would you now?

A If he walked off the street?

Q That's right.

MR. WOHL: Objection. There is no proof that these stock certificates are stolen stock certificates. Mr. Andrews apparently relies on the fact that Mr. Nordin testified concerning two or 300 shares. I think that is probably correct, that he did say something to that effect.

However, it was clear that Mr. Nordin did not have any records of the account.

He testified that he was not the person who received the records of the account and he had no way of knowing exactly how many stock certificates were sold, how many shares of stock were sold and, consequently, the Government submits that you cannot infer from the difference between the number he testified about and the number of shares that are shown by the records that the stock certifi-

cates were stolen.

MR. CHESTER: Judge, this is Chester. Mr. Wohl is making a lot of misstatements there. Mr. Nordin or Becker or whatever his name is, Anderson, he testified he got the checks and the confirmation slips were sent to him and if you look at the address you will see where they were sent.

MR. ANDREWS: My recollection is vivid on this, Judge. He said he set up an address, I believe a mail drop, and he went there and collected the checks at the mail drop when they were sent to the address he gave which is on the confirmation.

If Mr. Nordin decided to cash the checks and throw the records away, that is not my problem. I am confronted with a two or 300 share transaction and we find a thousand shares in that name and Heaven knows how many more and all of these stocks are in the name of the brokerage firm of Lockwood & Company and that company never played any part in any of this transactions and I am trying to trace them down to find out if Lockwood authorized the sales, if he had proof of ownership from Lockwood before he took them in from Jerry Becker and we know Jerry Becker was an imposter.

I must have some lattitude, your Honor. I can't

take the word of Sten Nordin.

MR. WOHL: Your Honor, I think that, in any event, it is clear Mr. Nordin testified as to how he obtained the stock certificates --

THE COURT: Does it include these which the witness has in his hand?

MR. WOHL: Yes.

MR. ANDREWS: Some of them.

THE COURT: Those have already been shown to Mr. Nordin and are they in evidence?

MR. WOHL: They are in evidence through his testimony and they were put in through his testimony and he identified them from the stock transfer records as stock that came out of certain names and was put into the name of Lockwood.

He did not identify them as the stock certificates that he took down to Mr. Torelli's business.

In any event, your Honor, the point is, the Government submits that there is no evidence that the stock certificates were stolen stock certificates and certainly the variance in the amounts doesn't establish that.

If Mr. Andrews wants to ask questions about whether proof of ownership was shown, what was shown and what investigation was done by Mr. Torelli, the Government doesn't

object to that, but it is the hypothetical questions, if this happened or that happened and in a lawsuit between him and somebody else who is going to win --

THE COURT: Yes. The present question is whether he, the witness, would be libel under a certain set of facts which would call for a legal conclusion on his part.

MR. ANDREWS: I believe I withdrew that question and I am attempting to have him reconsider his opinion that he did not need proof of ownership --

THE COURT: Well, ask him again. Ask him now whether proof of ownership is required.

BY MR. ANDREWS:

Q When you take certificates in the street name of a brokerage firm from an individual who comes in off the street, whether he has an account with you or not, isn't it a fact that you should have proof of ownership, proof of his right to possess, i.e., a confirmation in his hand, a letter, a bill of sale, something?

A I will answer yes to that.

Q Do you have such proof of ownership with respect to the shares which you traded for this Jerry Becker?

A No, but Mr. Britto, the registered representative may have gotten that.

Q Were you asked to bring such proof of ownership

to the Court by Mr. Wohl?

A No.

Q Were you asked to search for such proof of ownership?

A Everything relating to the stock.

Q If you had such proof of ownership it probably would have been in the file from which you got the confirmation?

A Right.

Q You didn't find it there?

A No.

Q Is it safe to assume there never was such proof of ownership?

A Possibly.

Q You would have kept it for your own protection, if you had it?

A Yes.

THE COURT: At this time we will take our morning recess.

The jury is excused for ten minutes.

(Jury leaves the courtroom.)

THE COURT: The witness is excused for ten minutes.

(Recess. Time noted: 11:35 a.m.)

(In open court. Jury present.)

THE COURT: Are you ready to proceed, Mr. Andrews?

MR. ANDREWS: Yes, your Honor.

I have some documents, and Mr. Grimes, who watches these things like a hawk, tells me some of these may be in evidence and some may not. May we have the clerk review them, please?

(Pause.)

THE CLERK: No, sir, not in evidence.

MR. ANDREWS: Your Honor, may they be admitted in evidence so I may refer to the contents of the documents. The Government has no objection.

THE COURT: What are they?

MR. ANDREWS: They are apparently in-office records of Prudential regarding trades in the stock of Stern-Haskell for the account of Jerry Becker and for the account of National Ventures.

THE COURT: Is there any objection?

MR. CHESTER: No objection from Chester.

MR. WOHL: No objection from the Government, your Honor.

MR. ANDREWS: Thank you.

THE COURT: Those will be Wax and Levine Exhibits?

MR. WOHL: They have been premarked as Govern-

ment's Exhibits.

MR. ANDREWS: Why don't we use the Government numbers.

THE COURT: All right.

There being no objection, they will be received.

(Government's Exhibits 162E, 162F, 162G, 162H, 166A, 166B received in evidence.)

BY MR. ANDREWS:

Q I show you the documents the clerk just mentioned, Mr. Torelli, which are now in evidence and ask you:

What are they, please?

A These are the work sheets, the original work tickets, when the order is first received.

Q They are, first of all, records of Prudential Investment Corporation, are they?

A Yes.

Q They are your work records?

A Yes.

Q And you fill those out when you get an order from a customer to buy or sell stock?

A That's right.

Q As a matter of fact, each of those documents refers to an order from a customer to sell stock?

A That's right. They correspond to -- this is

what affects this to be put out.

Q I understand. You mean that the work sheets to which you are referring result in or cause someone in your company to make a sale and result in the confirmation you have just held up?

A You don't have it in the right order.

Q Give it to me in the right order.

A The customer comes in and says, "I want to sell such and such stock" and this slip is made out.

THE COURT: The pink slip you have in your hand?

THE WITNESS: It is a multiform. This is the one that goes to the trader.

Q What Exhibit number does that bear?

A 166A and B.

THE COURT: Just give us an idea of what you are talking about for the record. It is 166A you have in your hand?

THE WITNESS: Right.

THE COURT: All right.

A This then goes to the trader who buys the buyer on the other side of the stock, or it might be the seller, also, and he affects the trade over telephone or teletype, and he writes in the broker on the other side.

Q Would you review those documents and tell us

who the brokers on the other side were?

A Gardner Securities, Lockwood Securities, Lockwood Securities, Lockwood Securities, F.O. Boroff Co., Russell and Sachs.

Q So you have four different brokers with respect to those transactions, is that correct?

A Right.

Q How do you determine which broker you will sell to on the other side?

A That is up to the trader, to find a broker that is willing to buy.

Q Doesn't he in fact look in the pink sheets to see who is making a market?

A He does, yes.

THE COURT: Try not to talk when the witness is talking. It makes it hard for the reporter, Mr. Andrews.

MR. ANDREWS: I am sorry, your Honor.

Q Your trader looks in the pink sheets to see who is making the market, is that right?

A Yes.

Q Even as your house would list in the pink sheet the stocks you were making a market in?

A That's right.

Q Some 30 to 35 stocks, didn't you testify?

A That's right.

Q All the documents refer to sales of Stern-Haskell to either Jerry Becker or National Ventures, is that correct?

A These, you mean?

Q Yes.

Would you look at them and see if I am not right?

A National Ventures and Jerry Becker.

Q And they all involve the stock Stern-Haskell, is that correct?

A That's right.

Q In which Prudential investment was selling as agent for the account of either Jerry Becker or National Ventures, isn't that correct?

A That's right.

Q Do you know whether or not Prudential invested any different marketing those securities, selling them?

A I wouldn't know that.

Q You did in fact effect the transactions, isn't that correct?

A That's right.

Q Do you recall whether or not you had to pay anyone to buy the stock from you?

A I certainly wouldn't do that. We never did

anything like that, no, sir.

Q You never heard of anything like that?

A No, sir.

Q No one had to be paid in order to sell that stock, is that correct?

A No, sir.

MR. WOHL: Objection. The witness can only testify whether he paid anyone.

THE COURT: Yes.

Q Did you ever pay anyone?

A No.

Q At Lockwood & Company to buy that stock?

A Never.

Q To your knowledge, did you ever pay anyone at Lockwood and Company to buy that stock from you?

A No, sir.

Q You didn't have any trouble selling it?

A I don't know that. It was up to the trader.

Q It was sold, is that correct?

A Yes.

MR. ANDREWS: Thank you. I have no other questions, your Honor.

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